GUIDE

TO THE

LAW AND PRACTICE

OF

THE SALFORD HUNDRED COURT

Including Precedents of Bills of Costs

BY

J. HARVEY SIMPSON

Solicitor

THIRD EDITION

1903

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GUIDE

TO THE

LAW AND PRACTICE

OF

THE COURT OF RECORD

FOR THE

HUNDRED OF SALFORD.

TOGETHER WITH THE SALFORD HUNDRED COURT ACT 1868,
THE RULES OF THE COURT, AND A COMPLETE SET
OF PRECEDENTS OF BILLS OF COSTS.

BY

J. HARVEY SIMPSON,

SOLICITOR.

THIRD EDITION.

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1903.

PREFACE.

IT is now ten years since the last edition of my "Guide to the Law and Practice of the Salford Hundred Court" was published, and since that period many events have happened to cause a thorough revision of the text absolutely necessary.

I have, therefore, prepared a third edition. Each chapter has been very carefully examined, and altered where necessary, and many new forms have been added. The whole book will be found of great assistance to practitioners, not only in the Salford Hundred Court, but also in the High Court.

I am happy to say I have received the very cordial assistance of Mr. H. ELTOFT, the Deputy-Registrar of the Court, who has read over the proofs and made some very valuable suggestions.

Another important feature of the book is a complete set of Precedents of Bills of Costs for every proceeding in the Court, and in this respect Mr. BURY, the Chief Clerk of

the Court, has very carefully revised the Precedents of Bills of Costs to be found in Mr. MOUNTAIN'S Book of Costs, all of which have been considerably altered.

Many of the forms have been much altered, and amongst the important alterations in the text are those bearing upon the Jurisdiction of the Court and proceedings under the Arbitration Act. Altogether, practitioners will find the new edition indispensable for properly taking proceedings in the Court.

J. HARVEY SIMPSON.

MANCHESTER,

October 1903.

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GUIDE

TO

THE LAW AND PRACTICE

OF THE

SALFORD HUNDRED COURT.

CHAPTER I.

The Constitution of the Court.

The Salford Hundred Court is of very ancient jurisdiction, and was formerly entitled "*Her Majesty's Court for the Hundred or Wapentake of Salford*," and had cognisance of all pleas of personal actions where the debt or damage was under the sum of forty shillings.

By the statute *9 and 10 Victoria, cap. 126*, it was enacted that the Court for the Hundred or Wapentake of Salford should thenceforth be a Court of Record for the trial of civil actions, to be held within the said Hundred, and should thenceforth be entitled "*The Court of Record for the Hundred of Salford in the County of Lancaster.*"

The jurisdiction of the Court was extended to all actions of assumpsit, covenant, detinue, and debt, and all actions of trespass and trover, provided the sum or damages sought to be recovered should not exceed fifty pounds.

By Letters Patent under the Great Seal, Her Majesty in 1838 granted that *The Mayor, Aldermen, and Burgesses of the then Borough of Manchester* should have and hold within the said Borough a *Court of Record* for the trial of civil actions, such Court having somewhat similar jurisdiction to the Salford Hundred Court.

By the statute *31 and 32 Victoria, cap. 130*, "*The Salford Hundred Court of Record Act, 1868*," the Court of Record for the Hundred of Salford and the Court of Record for the City of Manchester were amalgamated and constituted into *The Salford Hundred Court* now existing, the powers of the Court being extended and the practice and procedure of the Court regulated.

31 and 32 Victoria, Cap. 130.

An Act to amalgamate the Court of Record for the Hundred of *Salford*, in the County of *Lancaster*, and the Court of Record for the Trial of Civil Actions within the City of *Manchester*, and to constitute the said amalgamated Court the Court of Record for the Hundred of *Salford*, in the County of *Lancaster*, with extended Powers, and to regulate the Practice and Procedure therein; and for other purposes.

[*13th July 1868.*]

WHEREAS there exists in the Hundred of *Salford* in the County Palatine of *Lancaster* a Court of ancient Jurisdiction entitled Her Majesty's Court for the Hundred or Wapentake of *Salford*: And whereas the Jurisdiction of the said Court was extended and its powers enlarged by an Act made and passed in the Session of Parliament holden in the Ninth and Tenth years of the reign of Her present Majesty Queen *Victoria*, Chapter 126, and it was thereby established and constituted a Court of Record, intituled the Court of Record for the Hundred of *Salford* in the County of *Lancaster*: And whereas Her present Majesty Queen *Victoria*, by Her Royal Charter of Incorporation expressed

in certain Letters Patent under the Great Seal of the United Kingdom of *Great Britain* and *Ireland* bearing date the 28th day of *October* 1838, granted that the Mayor, Aldermen, and Burgesses of the Borough of *Manchester* in the County of *Lancaster*, and their successors, from thenceforth for ever might have and hold within the Borough aforesaid a Court of Record for the trial of Civil Actions before the Mayor of the said Borough for the time being on the days and with the authorities in the said Letters Patent mentioned: And whereas Her said Majesty, by certain other Letters Patent under the said Great Seal bearing date the 29th day of *March* 1853, ordered, constituted, and appointed that the said Borough of *Manchester* should thenceforth be a City, and shall be called and styled "The City of *Manchester* in the County of *Lancaster*," and that the said Mayor, Aldermen, and Burgesses of the said Borough of *Manchester* should thenceforth be One Body Politic and Corporate by the name and style of "The Mayor, Aldermen, and Citizens of the City of *Manchester* in the County of *Lancaster*": And whereas by divers Acts of Parliament, and particularly by an Act made and passed in the Session of Parliament holden in the Seventeenth and Eighteenth years of the reign of Her said Majesty, Chapter 84, the powers and jurisdiction of the last-mentioned Court of Record were extended, and its Practice and Procedure were simplified and otherwise improved: And whereas *Henry Wyndham West* Esquire, Q.C., Recorder of the City of *Manchester*, is the present Judge of the last-mentioned Court of Record, and *Joseph Kay* Esquire is the present Judge of the Court of Record for the Hundred of *Salford*: And whereas each of the said Courts as constituted and regulated by the said recited Acts have been found of great public utility: And whereas such utility will be greatly increased by the amalgamation of such Courts, and by an extension of the powers heretofore possessed by either of such Courts; but that object cannot be effected without the authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and

consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Commencement of Act.

1. The provisions of this Act shall come into operation on the 1st day of *January* 1869.

Repeal of Acts.

2. From the time when this Act shall come into operation the said recited Acts of the Ninth and Tenth years of Her said Majesty, Chapter 126, and of the Seventeenth and Eighteenth years of Her said Majesty, Chapter 84, respectively, shall be and they are hereby respectively repealed, except so far as may be necessary for the purpose of giving effect to actions or proceedings then depending in either of the said Courts: Provided nevertheless, that as regards such actions or proceedings, the provisions of this Act, so far as they are or may be applicable and are not repugnant to the said recited Acts, shall extend and apply.

Short Title.

3. This Act may be cited for any purpose as "The *Salford* Hundred Court of Record Act 1868."

Constitution and Title of the Court.

4. A Court of Record is constituted by this Act, which shall be called "The Court of Record for the Hundred of *Salford* in the County of *Lancaster*."

Interpretation of Terms.

5. In construing or interpreting this Act, and all Rules and Orders made under the provisions of this Act, unless it otherwise be provided, or there be something in the subject or context repugnant to such construction or interpretation—

The expression "The Court" shall mean the Court of Record for the Hundred of *Salford* as constituted by this Act:

The word "Action" shall mean any action brought by writ in and cognisable by the Court:

The word "Chancellor" shall mean the Chancellor of the Duchy of *Lancaster* for the time being:

The word "City" shall mean the City of *Manchester* in the County of *Lancaster:*

The word "Citizen" shall mean citizen of the said city:

The word "Borough" shall mean the Borough of *Salford* in the County of *Lancaster:*

The word "Burgess" shall mean burgess of the said borough:

The word "Council" shall mean the Council of the said city:

The word "House" shall include messuage, dwelling-house, warehouse, counting-house, shop, manufactory, room, shed, stable, outhouse, building, and every corporeal tenement erected on land, or part of a house as herein defined, and whether the same be in the basement or on the ground floor, or on any floor above the ground floor:

The word "Land" shall include any house as hereinbefore defined:

The word "Recorder" shall mean the present Recorder of the city:

The expression "The Judge" shall mean the Recorder, or *Joseph Kay* Esquire, or any Judge of the Court, to be hereafter appointed, and shall include the Deputy Judge:

The word "Hundred" shall mean the Hundred of *Salford* in the County of *Lancaster*, containing the Places, Townships, and Districts following, namely, the Parish of *Bolton-le-Moors*, containing the Townships of *Anlezark*, *Blackrod*, *Great Bolton*, *Little Bolton*, *Bradshaw*, *Breightmet*, *Edgeworth*, *Entwistle*, *Harwood*, *Darcy Lever*, *Longworth*, *Lostock*, *Quarlton*, *Rivington*, *Sharples*, *Tonge-with-Haulgh*, and *Turton;* the Parish of *Bury*, containing the Townships of *Bury*, *Elton*, *Heap*, *Tottington Lower End*, *Tottington Higher End*, *Walmersley*, and *Shuttleworth;* the Parish of *Dean*, containing the Townships of *Farnworth*, *Halliwell*, *Heaton*, *Horwich*, *Little Hulton*, *Middle Hulton*, *Over Hulton*, *Kearsley*, *Rumworth*,

and *Westhoughton;* the Parish of *Radcliff;* the Parish of *Wigan*, containing the Township of *Aspull;* the Parish of *Eccles*, containing the Townships of *Barton-upon-Irwell, Clifton, Pendlebury, Pendleton*, and *Worsley;* the Parish of *Flixton*, containing the Townships of *Flixton* and *Urmston;* the Parish of *Manchester*, containing the Townships of *Ardwick, Blakeley, Bradford, Broughton, Burnage, Cheetham, Chorlton - with - Hardy, Chorlton - upon - Medlock, Crumpsall, Denton, Didsbury, Droylsden, Failsworth, Gorton, Harpurhey, Heaton Norris, Haughton, Hulme, Levenshulme*, the City of *Manchester, Moss Side, Moston, Newton, Openshaw, Reddish, Rusholme*, the Borough of *Salford, Stretford*, and *Withington;* the Parish of *Prestwich-cum-Oldham*, containing the Townships of *Alkrington, Great Heaton, Little Heaton, Pilkington, Prestwich*, and *Tonge;* the Parish of *Ashton-under-Lyne*, containing *Ashton* Town District, *Audenshaw* District, *Hartshead* District, and *Knott Lanes* District; the Parish of *Middleton*, containing the Townships of *Ainsworth, Ashworth, Birtle-with-Bamford, Hopwood, Great Lever, Middleton, Pilsworth*, and *Thornham;* the Parish of *Prestwich-cum-Oldham*, containing the Townships of *Chadderton, Crompton, Oldham*, and *Royton;* the Parish of *Rochdale*, containing the Townships of *Blatchinworth* and *Calderbrook, Butterworth, Castleton, Spotland, Todmorden*, and *Walsden, Wardleworth, Whitworth*, and *Brandwood*, and *Wuerdle* and *Wardle;* and the Extra-parochial Place or Township of *Beswick:*

The word "Justice" shall mean Justice of the Peace for the County of *Lancaster*, and for any borough, city, or place within the said county, and shall include Justices of the Peace and any stipendiary Justice for the City of *Manchester*, or the Borough of *Salford*, or for the Petty Sessional Division of *Manchester*, in the County of *Lancaster* respectively:

The word "Landlord" shall mean the person entitled to the immediate reversion of the land, or if the land be held in joint tenancy, coparcenary, or tenancy in common, shall mean according to the subject matter all or any one of the persons entitled to such reversion:

The word "Mayor" shall mean the mayor for the time being of the City of *Manchester:*

The word "Person" shall include a corporation, whether aggregate or sole:

The word "Registrar" shall mean the Registrar of the Court as constituted by this Act, and shall include the Deputy Registrar:

The word "Proceedings" shall mean and include all matters and things within the competency and jurisdiction of the Court:

The word "Oath" shall include affirmation in case of Quakers, or other declaration or solemnity lawfully substituted for an oath in case of any other persons exempted by law from the necessity of taking an oath:

The expression "High Steward" shall mean Her Majesty's High Steward for the time being of the Hundred or Wapentake of *Salford*, in the County of *Lancaster*, and of the Court of Record for the said Hundred, regulated and constituted in pursuance of this Act:

The expression "the City Fund" shall include the borough rate.

Jurisdiction of the Court.

6. The Court shall have authority to try—

(1) Personal actions, if the cause of action arise within the Hundred, provided that the Court shall not, except by consent of the parties, to be signed and filed as hereinafter mentioned, have cognisance of

any action in which the debt or damages sought to be recovered shall exceed the sum of fifty pounds.

(2) Actions of ejectment between landlord and tenant, provided the land for which possession is sought to be recovered is situate in the Hundred, and the annual rent or the annual value of such premises do not exceed fifty pounds, and no fine shall have been paid, reserved, or made payable in respect of such land:

(3) Any action whatsoever (except actions for libel, slander, or for debauching the Plaintiff's daughter or servant, wherein the sum sought to be recovered shall exceed fifty pounds), provided a consent to the jurisdiction of the Court in the form contained in the Schedule to this Act annexed, signed by the parties to be made the Plaintiff and the Defendant respectively in any such action, or by their attorneys respectively, shall be left with the Registrar at the time of the sealing of the writ in the cause, which consent shall be filed by the Registrar, and be of record in the Court:

Provided always, that if in the course of any action (unless a consent has been signed and filed as aforesaid) it shall appear or shall be made to appear upon oath to the Judge or Registrar that the debt or damages sought to be recovered in any such action, or that the annual rent or the annual value of the land of which possession is sought to be recovered, or in, upon, or in respect whereof any easement or license is claimed, exceeds fifty pounds, or the title to any hereditament, toll, tithe, fair, market, or franchise, or that damages are sought to be recovered in any action for malicious prosecution, shall be in question, then the Judge or Registrar shall order all proceedings in such action to be stayed upon such terms as to the payment of costs by the Plaintiff or otherwise as to the Judge or Registrar may seem just, and such Order shall have the effect of and be enforceable as a Rule of Court.

Mode of Objecting to the Jurisdiction.

7. Save and except as aforesaid, no Defendant shall be permitted to object to the jurisdiction of the Court otherwise than by special plea, and if the want of jurisdiction be not so pleaded the Court shall have jurisdiction for all purposes.

No Privilege allowed.

8. No privilege shall be allowed to any person to exempt him from the jurisdiction of the Court.

And as to the Sittings of the Court.

Sittings for the Trial of Issues.

9. Sittings for the trial of issues of law and of fact shall be holden six times at least in each year at the Assize Courts for the Hundred of *Salford* on days to be appointed by the Judge, so that no longer period than three months shall elapse between the holding of any two successive sittings, and the Registrar shall give public notice thereof ten days before the holding thereof.

Weekly Sittings.

10. Sittings for all purposes of the Court, except the trial of issues of law and of fact, shall be holden at the Town Hall of the City, or at such other place within the Hundred as the Judge by Rule or Order shall appoint, and at intervals not exceeding seven days, and notice of the day of the week on which such sittings shall be holden shall be placed in some conspicuous part of the office of the Registrar, and no other notice shall be needed: Provided always, that in case it shall hereafter be deemed expedient to alter such day of the week, one month's notice of such intended alteration, and of the time when it will take effect shall be in like manner placed in the office of the Registrar.

And as to the Officers of the Court.

High Steward.

11. Whereas the Right Honourable *William Philip* Earl of *Sefton*, and his ancestors, have long held, enjoyed, and exercised the dignity and office of Her Majesty's Steward for the Hundred or Wapentake of *Salford* in the County Palatine of *Lancaster*, and the said Earl as such Steward is entitled (under the Thirtieth Section of the said recited Act of Parliament of the Ninth and Tenth *Victoria*, Chapter 126) to receive for his own use one-third part of the net receipts

in respect of fees for business in the said Court of Record for the Hundred of *Salford* in the County of *Lancaster:* Be it therefore enacted, that Her Majesty's Steward for the time being of the Hundred or Wapentake of *Salford* shall be the High Steward of the Court as constituted by this Act.

First Judges.

12. The Recorder and *Joseph Kay* Esquire (Judge of the Court of Record for the Hundred of *Salford* in the County of *Lancaster* as constituted before the passing of this Act) shall be the first Judges of the Court as constituted by this Act, and each shall hold the office during good behaviour, provided that the said Judges shall sit each at alternate sittings or otherwise as they may appoint, but not together.

Survivor to be sole Judge.

13. Upon either of them, the Recorder or the said *Joseph Kay* Esquire, ceasing to hold the office of Judge of the Court, the other of them shall remain and be the sole Judge.

Supplying Vacancies.

14. Upon the office of Judge becoming vacant at any time subsequent to the said Recorder and the said *Joseph Kay* Esquire ceasing to hold the said office, the Chancellor shall, upon each successive vacancy, appoint a Serjeant-at-Law or a Barrister-at-Law of not less than ten years' standing to be the Judge of the said Court, who shall hold the office during good behaviour.

Salaries of Judges.

15. There shall be paid by the Council out of the general fund of the Court hereinafter mentioned, or out of the City Fund, to the Recorder and to *Joseph Kay* Esquire a yearly stipend of three hundred pounds each, or such further sum as the Chancellor, with the concurrence of the said Council, may from time to time appoint (the payment to the Recorder to be in addition to the stipend now paid to him as Recorder), and upon either of them, the Recorder or the said *Joseph Kay* Esquire, ceasing to hold the office of Judge, the other of them and any future Judge shall be paid in such manner as aforesaid such stipend as the Chancellor, with the like concurrence of the said Council, shall appoint, the same not being less than five hundred pounds *per annum.*

16. Every future Judge of the Court to be appointed as before mentioned shall, before he shall be qualified to act as such Judge, take before one of the Justices of Assize for the said County Palatine for the time being, or before one of Her Majesty's Justices of the Courts of Queen's Bench or Common Pleas, or one of Her Majesty's Barons of Her Exchequer, the following Oath (that is to say): Oath of Judge.

"I, *A.B.*, do swear that I will truly and faithfully, accord-
"ing to the best of my skill and knowledge, execute the
"several powers and duties of Judge of the Court of Record
"for the Hundred of *Salford* in the County of *Lancaster*
"without fear, favour, or malice.

So help me GOD."

17. In case of the illness or unavoidable absence of the Judge, it shall be lawful for him from time to time to appoint, by writing under his hand, any fit person, being a Serjeant-at-Law or a Barrister-at-Law of five years standing, to be Deputy-Judge, and such Deputy-Judge while acting under such appointment shall have all the powers and shall perform all the duties of the Judge. Deputy-Judge may be appointed in certain cases.

AND AS TO THE POWERS AND DUTIES OF JUDGE.

18. The Judge shall preside at the sittings for the Trial of Issues of Fact and of Law, and shall have all the powers which now are or which may at any time hereafter under any statute or otherwise be possessed or exerciseable by a superior court, or a Judge thereof, and also all the powers which by virtue of this Act may be exercised by the Registrar. General Powers.

19. The Judge may appoint and hold a Court for the Trial of Issues of Law only at any place either within or out of Hundred, of which Court and the time and place of holding the same ten days' previous notice shall be given by the Registrar to the parties or their attorneys through the post or otherwise. Judge may hold Court for Trial of Issues of Law only.

20. The Judge may at any time within twenty-one days after the trial of any cause, and whether the Court be sitting or not, and either when within or when out of the Hundred, Power of Judge when out of the Hundred to hear motions.

hear and grant applications for Rules to show cause in arrest of judgment, or for judgment *non obstante veredicto*, or for a repleader, or for granting new trials, or for entering nonsuits and verdicts in causes pending in the Court, to the same extent and subject to the same rules, regulations, and manner of proceeding as in the superior courts, and all rules and orders made by him upon the hearing of such motions out of Court shall be as valid and binding upon the parties as if the same had been made during the sittings of the Court.

Attorneys.

Attorneys of superior courts may practise.

21. Any attorney of the superior courts may be admitted an Attorney of the Court on producing his certificate of admission and his certificate to practise, or otherwise satisfying the Registrar thereof, and on signing the roll of Attorneys of the Court.

Registrar and other Officers.

Appointment of Registrar, Head Bailiff, Clerks, and Criers, and as to security.

22. It shall be lawful for the Council from time to time to appoint fit and proper persons in that behalf to the respective offices of Registrar of the Court, Head Bailiff of the Court, Clerks, and Criers, at such salaries respectively as the Council shall from time to time fix in each respective case, and to require and take from any such person such security for the due and proper performance of the duties of any such office as the Council shall think expedient, and to dismiss any such person at pleasure.

Present Registrar etc. (except Mr. Hulme) to be the Registrar, etc., of the Court.

23. Provided always, that the several persons (other than *James Hilton Hulme*, gentleman, the Registrar and Deputy-Steward of the Court of Record for the Hundred of *Salford* as constituted before the passing of this Act), who up to the time of this Act coming into operation shall respectively be the Registrar, the Deputy-Registrar of the Court of Record for the trial of civil actions within the City of *Manchester* as constituted before the passing of this Act, the Assistant Registrar of the Court of Record for the Hundred of *Salford* as constituted before the passing of this Act, Clerks, and

Criers, shall hold their respective offices in the Court as constituted by this Act as if they had been appointed under the provisions of this Act.

Retiring pension to Mr. Hulme.

24. And as to the said *James Hilton Hulme*, be it enacted, that from the time of this Act coming into operation the Council shall pay out of the general fund of the Court, or out of the city fund, unto the said *James Hilton Hulme* during his natural life a retiring pension or annuity, the amount whereof shall be calculated upon and equal to the average amount *per annum* of his net receipts for the last five years from the office of Deputy-Steward and Registrar of the said Court of Record for the Hundred of *Salford* as constituted before the passing of this Act, such pension or annuity to be paid free from all taxes, except the tax on income, by quarterly payments, the first payment to be made at the expiration of three calendar months from the day when this Act shall come into operation; and upon the death of the said *James Hilton Hulme* his executors or administrators shall be entitled to receive the proportionate part of such pension or annuity which shall have accrued up to the day of his decease.

REGISTRAR.—QUALIFICATION AND DUTIES.

Qualification and duties of Registrar.

25. The Registrar shall be a duly certificated attorney of one of the superior courts, and he shall have and exercise all the powers and perform all the duties which now are or which may at any time hereafter, under any statute or otherwise, be possessed or exerciseable by a master of the superior courts, and he shall at the weekly sittings or otherwise, and subject to the Rules of Court for the time being, enforce, hear, and dispose of all rules, motions, matters, and proceedings, and make all orders and do all things relating to the business of the Court, except the trial of issues of law or of fact, and except as is in and by this Act specially directed or provided otherwise.

Registrar may appoint Deputy.

26. The Registrar, with the approbation of the Council, may from time to time appoint a Deputy, who shall be a duly certificated attorney of one of the superior courts, and may at

pleasure remove such Deputy, and such Deputy while acting under such appointment shall have the like powers, and be subject to the like duties and penalties for misbehaviour, as if he were the Registrar of the Court, and such Deputy-Registrar shall be paid such salary as the Council may from time to time appoint.

Penalty on Registrar, Officers, etc., acting improperly.

27. The Registrar shall not directly or indirectly practise as an attorney in the Court, and every person who being the Registrar, or the partner of such Registrar, or in the service or employment of such Registrar or his partner, shall in any manner directly or indirectly be engaged as attorney for any party in any proceedings in the Court, shall for every such offence forfeit and pay the sum of fifty pounds, with costs of suit, to any person who by action in any of the superior courts shall sue for the same, and it shall suffice that the plaintiff shall declare as for money payable by the party offending to the plaintiff under and by virtue of this Section of this Act; and if any officers of the Court shall exact, take, or accept any fee or reward whatsoever, other than and except such fees as are or shall be appointed or allowed respectively by the Rules of the Court, for or on account of anything done or to be done by virtue of any proceeding in or process or warrant issuing out of the Court, or on any account whatsoever relative to any proceeding in the Court, every person so offending shall, on proof thereof by affidavit or otherwise before the Judge, be for ever incapable of serving or being employed in any office in the Court; and a copy of this section shall be attached to the table of fees to be exhibited in the office of the Registrar as hereinafter provided.

Head Bailiff.

Powers and duties of Head Bailiff, and his responsibility.

28. The Head Bailiff shall hold his office during pleasure; he shall execute all process of execution issuing out of the Court, and do all other things with respect to the Court which a Sheriff of any county can or ought to do, or which a Sheriff may hereafter, by any statute or otherwise, be enabled or required to do with respect to the superior courts, except so far as is inconsistent with the provisions of this Act or the

Acts herein referred to, and which said Head Bailiff shall have all the powers and authority for such purposes which a Sheriff of a county now hath or shall hereafter have with respect to the superior courts, and, except as aforesaid, shall be subject to the same duties and liabilities as a Sheriff of a a county; and such Head Bailiff may appoint and take security from Under-Bailiffs and Officers, and make his warrants to Under-Bailiffs and Officers who may execute the process of the Court, and the Head Bailiff shall be responsible to all parties having delivered process to him in all respects as and to the extent in which a Sheriff of a county is responsible for the act, omission, negligence, misconduct, misfeazance, or nonfeazance of his bailiff or officer.

And as to Fees and Accounts.

Judge to determine fees payable to Registrar and Officers of the Court.

29. The Judge shall and he is hereby required to make and settle a table of the fees to be taken by the Registrar and the Head Bailiff and the other Officers of the Court (if any), and such table of fees shall be submitted to one of Her Majesty's Judges of the Common Pleas at *Lancaster*, and if such table of fees shall be confirmed and allowed by such Judge as aforesaid, either as such table shall have been submitted to him, or with such alterations, additions, or abatements as he shall think proper, the fees therein mentioned, and no other, may thenceforth be lawfully taken by the person therein named to be entitled thereunto; provided that the table of fees for the Court of Record for the trial of civil actions within the City of *Manchester* which shall be in existence at the time this Act shall come into operation shall be and remain the table of fees under this Act until some change shall be made therein under the provisions of this Act.

Power to Judge to alter fees from time to time.

30. It shall be lawful for the Judge from time to time, as occasion shall require, to make a new table of fees to be taken instead of the fees contained in the table of fees which shall have been made as aforesaid, which new table shall be confirmed and allowed in the manner hereinbefore mentioned, otherwise the same shall be of no validity.

Table of fees to be exhibited.

31. The Registrar shall cause a true copy of the table of fees in force for the time being to be exhibited in a conspicuous part of the office of the Registrar.

Account of fees to be kept by Registrar.

32. All fees and sums of money by the table of fees for the time being required to be paid by the suitors in the Court (except the Head Bailiff's fees) shall be paid and accounted for by the officers or persons receiving the same to the Registrar, who shall keep an account of the same, and shall carry the same to an account to be entitled "the General Fund of the Court of Record for the Hundred of *Salford*," and the Registrar shall also keep a daily and a half-yearly account in writing of the fees received in the Court on all proceedings therein where the cause of action shall have arisen within the jurisdiction of the Court of Record for the Hundred of *Salford* in the County of *Lancaster* as it existed before the passing of this Act.

Registrar to render account and pay over moneys as Council shall direct.

33. The Registrar shall from time to time, as often as he shall be required so to do by the Council, or by the High Steward for the time being, and in such form as the Council or Treasurer of the city shall require, deliver to such Treasurer or to such High Steward a full account in writing of the fees received in the Court, distinguishing in the said account the fees received in the Court on all proceedings therein where the cause of action shall have arisen within the jurisdiction of the Court of Record for the Hundred of *Salford* in the County of *Lancaster*, as it existed before the passing of this Act, from the fees received in the Court on all other proceedings therein, and a like account of all fines levied by the Court, and of the expense of levying the same, and a like account of the moneys paid into and out of the Court by and to defendants and plaintiffs under any order of the Court, or under any levy made under process of the Court, and of the balances then remaining in Court belonging to plaintiffs or defendants in the Court, and the Registrar shall pay over to the Treasurer of the City, quarterly or oftener in every year, by order of the Council, the moneys remaining in his hands over and above such balance as he shall be allowed by order

of the Council to retain for the current expenditure of the Court.

City Treasurer to account to High Steward.

34. The Treasurer of the City shall from time to time, as often as he shall be required so to do by the High Steward, deliver to him, free of all cost or expense, a full and true copy in writing of the said daily and half-yearly account as hereinbefore mentioned.

City Treasurer to keep accounts and how moneys to be applied, and provisions for audit.

35. The moneys to be from time to time paid over by the Registrar to the Treasurer of the city shall be by such Treasurer carried to an account to be entitled "the General Fund of the Court of Record for the Hundred of *Salford*," and out of the moneys for the time being constituting such General Fund, or out of the City Fund, the Council shall pay the expenses of carrying on the Court, and providing such officers, clerks, and other assistants as may, in the opinion of the Council, be required for carrying on the business of the Court, and shall also pay to the High Steward once in each six calendar months at least such a sum as shall be equal to one third part of the fees received in the Court on all proceedings in the Court where the cause of action has arisen within the jurisdiction of the Court of Record for the Hundred of *Salford* as constituted before the passing of this Act, after deducting from such last-mentioned fees towards the expense of carrying on the Court such a proportion of such expenses as would be equal to the proportion which such last-mentioned fees bear to all the fees received in the Court during the same period on all proceedings therein: Provided always, that the amount so to be paid to the said High Steward shall not in any year be less than the sum of two hundred guineas: Provided also, that the residue (if any) of the moneys from time to time paid over by the Registrar to the Treasurer as aforesaid shall (after payment thereout of all expenses connected with or incident to the establishment of the Court, including the expenses of this Act), be invested in such manner as the Council shall direct, and at the termination of every five years, or of such shorter period as may be determined by the Chancellor, such residue, or so much

thereof as shall be specified in any order to that effect by the Chancellor, shall be paid by the Treasurer to the Treasurer of the County Palatine of *Lancaster*, to be by him paid and applied to the purposes and for the benefit of the Hundred of *Salford*; Provided always, that if the High Steward or the Council shall at any time so require, an auditor shall be appointed by the High Steward for the time being and the Council to ascertain and adjudge the amount of fees arising from the business of the Court within the Hundred other than the city, and the fair proportion of the expenses to be charged against the same, such auditor, in case of difference as to his appointment, to be from time to time nominated by the chairman for the time being of the *Salford* Quarter Sessions, and the expense of such audit to be borne by the Court or to be paid out of the city fund.

City Fund to be applicable, if necessary, for purposes of Act.

36. So much and such part of the moneys to be expended for the purposes of this Act as may be necessary may and shall in the meantime be paid by the Council out of the city fund.

Seal of the Court.

Seal of the Court, and forgery of same, or uttering false documents.

37. The Council shall provide a seal of the Court, and every summons, process, or document issuing out of the Court shall be sealed or stamped with such seal; and every person who shall forge the seal or any summons, process, or document of the Court, or shall serve or enforce any forged summons, process, or document, knowing the same to be forged, or who shall deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons, process, or document of the Court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process of the Court, shall be guilty of felony, and on conviction be punished as on a conviction for simple larceny.

As to the Practice and Procedure of the Court.

Precipe.

38. Upon the precipe for every writ or summons issued under the provisions of this Act, and upon every proceeding

filed or taken in the Court, the person filing such precipe, or filing or taking such proceeding, shall state thereon in writing where the cause of action arose.

Teste of Writs.

39. Every writ of summons shall be tested in the name of the High Steward, or, in case of the vacancy of his office, in the name of the Judge.

Service out of Hundred.

40. Any writ, order, summons, or process issuing out of or made or taken in the Court may be served in any part of *England* or *Wales*.

Writs for commencement of actions.

41. All the provisions of "The Common Law Procedure Act 1852," with respect to writs for the commencement of personal actions (except so far as relate to the teste thereof in the name of a Judge) which are contained in the Sections numbered respectively 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 15, 16, 17, 20, and 25 in the Queen's Printers copies of the said Act, shall extend and apply to the Court, but the said Section No. 12 shall be read as if the words "according to the provisions of the said Act of His late Majesty King *William* the Fourth" had not been used therein, and the said Section No. 25 shall be read as if the words "the Defendant resides within the jurisdiction of the Court and" had not been used therein, and all the said sections shall be read as if the word "Registrar" had been used therein instead of the word "Master."

Proceedings to stay before declaration where debt confessed.

42. The Registrar, upon the application of a Defendant served with a writ of summons in any action for a liquidated demand, may at any time before declaration filed stay the proceedings in such action by an Order of Court, by which the Defendant shall confess the claim endorsed on the writ (hereinafter called "the debt"), and by which he shall undertake and agree to pay the debt and costs endorsed on the writ, and the costs of the Order, at such period or periods, not exceeding three months in the whole (unless the Plaintiff shall consent to a longer time), and by instalments or otherwise, as to the Registrar may seem proper under the particular circumstances of the case, and which period or periods, instalment or instalments, shall be specified in the said Order, together with such terms as the Registrar may think proper

to impose on the Defendant on granting such application; and in case of default the Plaintiff may sign final judgment on such confession as aforesaid for the debt so endorsed on the said writ, with costs of suit to be taxed, and may forthwith issue execution for the whole of such debt remaining due at the time of issuing the same, and costs as last aforesaid.

Proceedings on part confession.

43. A Defendant may, on such application as aforesaid, have leave to confess in manner aforesaid any part of the debt, if such part on the hearing of the application shall appear to be all that is *bona fide* due and owing to the Plaintiff and the Registrar may make such Order of Court and give such time as aforesaid, and may in such case award costs or not in his discretion; or if on such application as last aforesaid the parties shall not agree as to the amount of the debt, but the Plaintiff shall claim a further sum than the Defendant is willing to confess, then the Defendant may in manner aforesaid confess the sum which he is so willing to confess as aforesaid, and the Registrar may make such order and give such time as aforesaid with respect to the sum which the Defendant shall so confess; and the same proceedings, including the signing of judgment and issuing of execution, shall take place on such confession with respect to the sum so confessed as in the case where the whole debt is confessed as aforesaid; and the Plaintiff shall be allowed to declare for any further amount, but shall in his Particulars of Demand give credit for, and shall not on the trial of the cause be allowed to proceed for any part of the sum so confessed as aforesaid.

Proceedings before appearance.

44. The application and proceedings on confession hereinbefore provided may be made and take place without any appearance being entered.

Appearance and proceedings in default of appearance.

45. All the provisions with respect to the appearance of the Defendant, and proceedings of the Plaintiff in default of appearance, contained in the Sections of "The Common Law Procedure Act 1852," numbered 26, 27, 28, 29, 30, 31, 32, and 33 in the Queen's Printers copies of the said Act, except such as relate to the sum for costs of a judgment to be fixed by the Judges and Master of the superior courts, shall extend

and apply to the Court; and in reading the Twenty-seventh and Twenty-eighth Sections of "The Common Law Procedure Act 1852," as so extended, the expression "Judge's Order" in the same sections respectively shall mean an order of the Registrar as well as an order of the Judge; and in reading the Twenty-eighth Section the words "in the event of no plea being delivered" shall be read as if the said words had been "in the event of no plea being filed;" and Section numbered 30 as applied to the Court shall be read as if the words "Master's Office" had been "Registrar's Office," and as if the words "Pleadings and other" had not been used therein.

Costs of judgment for default of appearance.

46. The sum for costs for which judgment may be signed and execution had under the Twenty-seventh and Twenty-eighth Sections respectively of "The Common Law Procedure Act 1852" shall be fixed by the Registrar, subject to the approval of the Judge and of one of the Masters of the Court of Queen's Bench at *Westminster*.

And as to the Joinder of Parties to Actions, and Joinder of Causes of Action.

Joinder of parties.

47. All the provisions with respect to the joinder of parties to actions which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 34, 35, 36, 37, 38, 39, and 40 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Joinder of causes of action.

48. All causes of action of whatever kind, except ejectments, may be joined in the same suit, provided they be by and against the same parties and in the same rights; but the Registrar shall have power to prevent the trial of different causes of action together if such trial would be inexpedient, and in such case the Registrar may order separate records to be made up and separate trials to be had.

And as to Pleadings in General.

Pleadings in general.

49. All the provisions which are contained in the Sections of "The Common Law Procedure Act 1852,"

numbered 49, 50, 52, 53, 54, 55, 56, and 57 in the Queen's Printers copies of the said Act shall extend and apply to the Court, and no pleadings shall be deemed insufficient for any defect which could heretofore only be objected to by special demurrer.

Declarations.

50. It shall not be necessary in any declaration to aver that any matter therein mentioned arose within the jurisdiction of the Court.

Particulars of demand.

51. All the provisions which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 58, 59, 60, and 61 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Security for Defendant's costs in actions of tort.

52. It shall be lawful for any person against whom an action of tort is brought in the Court to make at any time after declaration an affidavit that the Plaintiff has no visible means of paying the costs of the Defendant should a verdict be not found for the Plaintiff, and thereupon the Registrar or Judge shall have power to make an order that unless the Plaintiff shall, within a time to be therein mentioned, give full security for the Defendant's costs to the satisfaction of the Registrar, or satisfy the Registrar or Judge that he has a cause of action fit to be prosecuted in the Court, all proceedings in the action shall be stayed.

Pleas and subsequent pleadings.

53. All the provisions which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 62, 64, 65, 66, 67, 68, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, and 90 in the Queen's Printers copies of the said Act shall extend and apply to the Court, but the word "delivered" in the said Eighty-ninth Section shall be read as if the same had been "filed."

Time for pleading.

54. The time for pleading in bar, unless extended by the Registrar, shall be eight days, and a notice requiring the Defendant to plead in eight days or otherwise judgment shall be served on the Defendant or his attorney.

Pleas puis darrein continuance.

55. In cases in which a *plea puis darrein continuance* has heretofore been pleadable in the superior courts, the same

defence may be pleaded in the Court, with an allegation that the matter arose after the last pleading; but no such plea shall be allowed unless accompanied by an affidavit stating that the matter thereof arose within eight days next before the pleading of such plea, or unless the Registrar or Judge shall otherwise order.

Restrictions as to plea in abatement for non-joinder of Co-defendant.

56. No plea in abatement for the non-joinder of any person as a Co-defendant shall be allowed in the Court unless it shall be stated in such plea that such person is resident in the jurisdiction of the Court, and unless the place of residence of such person shall be stated with convenient certainty in an affidavit verifying such plea.

Payment into Court.

57. Where money is paid into Court it shall be paid to the Registrar, who shall give a receipt for it in the margin of the plea, which receipt shall not be liable to any stamp duty, and the said sum shall be paid out to the Plaintiff or to his attorney on demand.

Examples of pleadings.

58. The provisions with respect to the statement of causes of action and forms of pleading contained in the ninety-first section and Schedule B. of the Queen's Printers copies of "The Common Law Procedure Act 1852," shall extend and apply to the Court.

And as to Questions raised by Consent without Pleading, and as to Special Cases.

Questions by consent without pleading.

59. All the provisions with respect to the determination of questions raised by consent of the parties without pleading which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 42, 43, 44, 45, 46, 47, and 48 in the Queen's Printers copies of the said Act, shall extend and apply to the Court; and in reading the Forty-second and Forty-sixth Sections of the said Act as so extended the expression "order of a Judge" in the same Sections respectively shall include an order of the Registrar as well as an order of the Judge.

Subsequent proceedings to be the same as in ordinary actions.

60. The proceedings to set aside the verdict and order a new trial to be had, or to enter the verdict for either party

according to leave reserved at the trial, shall be the same as in ordinary actions.

A special case may be stated for the opinion of one of the superior courts at Westminster.

61. The parties in any action may, after issue joined by consent and by order of the Registrar, state the facts of the case in the form of a special case for the opinion of any one of the superior courts, and may agree that a judgment shall be entered in the Court for the Plaintiff or Defendant, as such superior court shall think fit.

Special case to be transmitted by the Registrar to the Rule Department.

62. The Registrar shall transmit such special case under seal of the Court to the Rule Department of the Master's Office of the superior court in which the case is to be argued, and thereupon all such proceedings shall be taken and rules and regulations observed in the superior court as are usual with reference to cases stated for the opinion of such superior court in actions therein pending.

Upon production to Registrar of Rule of superior court, judgment to be entered.

63. The Registrar, upon the production of an office copy of the rule of the superior court made upon hearing of the said special case shall enter judgment in the Court in conformity with the decision of the superior court.

And as to Judgments by Default in Personal Actions.

Judgment by default in general

64. All the provisions with respect to judgment by default, and the mode of ascertaining the amount to be recovered thereupon, which are contained in the Sections of "The Common Law Procedure Act 1852," and numbered 92, 93, 94, 95, and 96 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Proceedings where Plaintiff neglects to bring issue to trial.

65. Where any issue is or shall be joined in any cause, and the Plaintiff has neglected or shall neglect to bring such issue on to be tried at or before the second sittings for the trial of issues next after issue joined, whether the Plaintiff shall in the meantime have given notice of trial or not, the Defendant may give ten days' notice to the Plaintiff to bring the issue on to be tried at the sittings for the trial of issues next after the expiration of the notice; and if the Plaintiff afterwards neglect to give notice of trial for such sittings, or

to proceed to trial in pursuance of the said notice given by the Defendant, the Defendant may enter the proceedings on record, and suggest thereon that the Plaintiff has failed to proceed to trial although duly required so to do (which suggestion shall not be traversable, but only be subject to be set aside if untrue), and may sign judgment for his costs, provided that the Registrar shall have power to extend the time for proceeding to trial with or without terms.

Defendant's right to try upon default of the Plaintiff reserved.

66. Nothing herein contained shall affect the right of a Defendant to set down a cause for trial after default by the Plaintiff to proceed to trial according to the course and practice of the Court; and if records are entered for trial both by the Plaintiff and the Defendant, the Defendant's record shall be treated as standing next in order after the Plaintiff's record in the list of causes, and the trial of the cause shall take place accordingly.

And as to Juries.

Who to be jurors.

67. After the passing of this Act every person being on the Citizens' Roll of the City of *Manchester*, and every person now qualified and liable to serve upon Juries in the Court for the Hundred or Wapentake of *Salford* (unless he shall be exempt or disqualified otherwise than in respect of property from serving on Juries by virtue of an Act passed in the Session of Parliament held in the Sixth year of the Reign of King *George* the Fourth, intituled *An Act for consolidating and amending the Laws relative to Jurors and Juries*, as the same Act has been altered by the Act for the Regulation of Municipal Corporations in *England* and *Wales*, and unless he shall be exempt and disqualified from serving on Juries by virtue of an Act passed in the Session of Parliament held in the Twenty-fifth and Twenty-sixth Years of the Reign of Her Majesty Queen *Victoria* intituled *An Act to give greater Facilities for summoning persons to serve on Juries, and for other purposes relating thereto*), shall (with such exceptions only as are hereinafter mentioned) be qualified and liable to serve upon Juries for the Trial of all Issues of Fact joined in the Court.

6 G. 4. c. 50 (*Pub.*)

25 & 26 Vict. c. 107 (*Pub.*)

Registrar to summon jury.

68. Previously to the holding of any sittings for the Trial of Issues of Fact the Registrar shall cause to be summoned not less than thirty-six nor more than sixty persons so qualified and liable as aforesaid to serve as Jurors, and such Summons may be served in the manner provided in respect of Sheriffs of Counties summoning Jurors, or by showing to the person to be summoned, or in case he shall be absent from the usual place of his abode or business, then by leaving with the wife or servant of such person, or with any inmate at his usual place of abode or business, a notice containing the substance of such summons, and the Registrar shall make out a panel of the persons so summoned, and such panel shall contain therein the christian names and surnames and places of abode and descriptions of the several persons therein named.

Fine on jurors for non-attendance.

69. If any person having been duly summoned to attend on any Common Jury shall not attend in pursuance of such summons, or being thrice called shall not answer to his name, or after his appearance shall wilfully withdraw himself from the presence of the Court, the Judge shall impose such fine upon every person so making default (unless some reasonable excuse shall be proved to the satisfaction of the Judge) as the Judge shall think meet, not exceeding forty shillings; and if any person on whom such fine shall be imposed shall refuse to pay the same to the Registrar, it shall be lawful for the Judge then or at the next or some subsequent sitting of the Court, by an Order signed by the Registrar, to cause to be levied, by distress and sale of the goods of the person on whom such fine shall have been imposed, every such fine and the reasonable charges of every such distress and sale; and every fine so received shall be paid to the Registrar, to be by him carried to the Account of the General Fund of the Court: Provided nevertheless, that no person shall be summoned to serve as a Juror at the Court oftener than once in three years, unless every person qualified and liable so to serve shall have been summoned once during that period.

And as to Special Juries.

Mode of obtaining special juries.

70. The Plaintiff in any action where a consent to the jurisdiction of the Court shall have been signed and filed as hereinbefore mentioned shall be entitled to have the cause tried by a special jury upon giving notice in writing to the Defendant at such time as would be necessary for the notice of trial of his intention that the cause shall be so tried, and the Defendant in any such action shall be so entitled on giving the like notice within the time limited for giving countermand of notice of trial according to the practice of the Court; provided that the Registrar may at any time order that any such cause shall be tried by a special jury upon such terms as may be deemed fit.

Notice to Registrar of trial by special jury.

71. Where such notice has been given to try by a special jury either party may, three days before the sitting of the Court for the trial of issues, give notice to the Registrar that such cause is to be tried by a special jury, and shall at the same time deposit with the Registrar the sum of six pounds six shillings to be paid by him to such special jury, besides the usual fees of Court; and in case no such notice be given and deposit made, no special jury need be summoned or attend, and the cause may be tried by a common jury, unless otherwise ordered by the Registrar.

Special jurors.

72. Every citizen on the citizens' roll of the City of *Manchester*, and every burgess of the Borough of *Salford* on the burgess roll of the said borough, who shall be described as an esquire or person of higher degree, or as a banker or merchant, not being exempted as hereinafter mentioned, or by law otherwise exempt or disqualified, shall be liable to serve on special juries in the Court, and shall not be liable to be summoned or serve as a common juror in the Court.

Special jurors to be summoned to try all special jury causes.

73. The Registrar shall, upon such notice being given to him and deposit made, cause to be summoned out of the citizens and burgesses liable to serve as special jurors as aforesaid, a sufficient number of special jurors, not exceeding twenty-four in all, to try the special jury causes at the said Court; and the persons so summoned shall be the jury for

trying the special jury causes at the Court, subject to such right of challenge as the parties are now by law entitled to; and a panel of the special jurors so summoned shall be made and kept in the manner provided by the rules and practice of the Court with reference to the panel of common jurors, and upon the trial the special jurors shall be balloted for, and called in the order in which they shall be drawn from the box.

Fines on special jurors for non-attendance.

74. If any such special juror having been duly summoned shall not attend in pursuance of such summons, or after his appearance wilfully withdraw himself from the presence of the Court, the Judge shall impose such fine as he shall think meet, not exceeding five pounds, upon every person so making default, unless some reasonable excuse shall be proved to the satisfaction of the Judge; and in case of non-payment of such fine according to the directions of the Judge, the same may be levied in such manner as is provided for the levying of the fines imposed upon common jurors for any similar default.

Costs of special jury.

75. The person or party who shall apply for a special jury shall pay all the expenses occasioned by the trial of the cause by the same, and shall not have any further or other allowance for the same upon taxation of costs than such party would be entitled to in case the cause had been tried by a common jury, unless the Judge shall, immediately after the verdict, or after the plaintiff shall have been nonsuited, as the case may be, certify under his hand upon the back of the record that the same was a cause proper to be tried by a special jury.

Tales de circumstantibus.

76. If a full jury shall not appear before the Court, or if after the appearance of a full jury by challenge of any of the parties the jury is likely to remain untaken for default of jurors, the Judge, upon request of the Plaintiff or Defendant, shall command the Registrar to name and appoint, as often as need shall require, so many of such other citizens and burgesses then present as shall make up a full jury, and the Registrar shall at such command of the Judge return such citizens and burgesses as shall be present or can be found to

serve on such jury, and shall add and annex their names to the former panel; provided that where a special jury shall have been summoned for the trial of any issue, the talesmen shall be such as shall be empanelled upon the common jury panel to serve at the same Court if a sufficient number of such citizens and burgesses can be found; and all and every the parties aforesaid shall and may in each of the cases aforesaid have their respective challenges to the jurors so newly added and annexed, and the Court shall proceed to the trial of every such issue with those jurors who were before empanelled, together with the talesmen so newly added and annexed, as if all the said jurors had been so returned upon the writ or precept awarded to try the issue.

Power to order view if thought necessary.

77. In any case in which either party shall apply, and it shall appear to the Registrar proper and necessary that the jurors who are to try any issue should have a view of any place which may be in question on the trial of such issue, the Registrar may order a rule to be drawn up containing the usual terms, and also requiring, if he shall so think fit, the party applying for the view to deposit in the hands of the Registrar a sum of money to be named in the rule for payment of the expenses of the view; and all the provisions with respect to a view contained in the Section of "The Common Law Procedure Act 1852," numbered 114 in the Queen's Printers copies of the said Act, shall extend and apply to the Court; and the said Section so applied shall be read as if the word "Sheriff" therein had been "Registrar," and as if the words "and shall also return their names to the associate for the purpose of their being called as jurymen upon the trial" had not been used therein.

Members of the Council, &c., exempt from serving on juries.

78. Every member of the Council of the City of *Manchester* and of the incorporated boroughs within the said Hundred respectively, and every Justice assigned to keep the peace therein, and the treasurer and town clerk for the time being of the City of *Manchester* and of such boroughs respectively, and the Head Bailiff and the Registrar and all other officers of the Court shall be exempt and disqualified from

serving on any jury summoned for the Trial of Issues of Fact in the Court.

AND AS TO JUDGMENT, EXECUTION, &c.

Costs may be taxed and execution issued on any day subsequent to the trial.

79. The costs may be taxed by the Registrar, and final judgment signed and execution issued on any day subsequent to the day on which the issue may have been tried or the inquiry executed, provided that any Judge for the time being, or the Registrar, may in either of such cases order proceedings to be stayed for such time and on such terms as he may deem fit.

Cross judgments.

80. If there shall be cross judgments between the parties, execution shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum; and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Executions.

81. All the provisions with respect to executions which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 123 and 126 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Issuing and renewing Writs of Execution, and maintaining precedence thereof.

82. All Writs of Execution shall be sealed by the Registrar, and directed to the Head Bailiff or to any other officer named in the writ, and may be made returnable immediately after the execution thereof, provided that a Writ of Execution issued after the commencement of this Act, if unexecuted, shall not remain in force for more than the time to be limited by a rule of Court in that behalf, unless renewed in the manner hereinafter provided; but such writ may at any time before its expiration be renewed by the party issuing it for the like time from the date of such renewal, and so on from time to time during the continuance of the renewed writ, either by being marked with a seal bearing the date of the day, month, and year of such renewal (such seal to be provided and kept by the Registrar for such purpose), or by such party giving or

filing a written notice of renewal to or at the office of the Head Bailiff, signed by the party or his attorney, and bearing the like seal of the Court, which said notice the said Head Bailiff is hereby required to file; and a Writ of Execution so renewed shall take effect and be entitled to priority according to the time of the original delivery thereof.

Evidence of renewal.

83. The production of a Writ of Execution, or of the notice renewing the same, purporting to be marked with such seal, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Detainer.

84. Any person already in custody in the gaol of the city, or in any prison for the reception of debtors in the County of *Lancaster*, may be charged and detained in execution by an Order of the Registrar for that purpose made on affidavit that a judgment in the Court has been signed and is not satisfied, and the service of such Order upon the keeper of such prison for the time being shall have the effect of a detainer for such unsatisfied judgment.

Proceedings to revive.

85. All the provisions with respect to proceedings for the revival of judgments and other proceedings by and against persons not parties to the record which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 128, 129, 130, 131, 132, 133, and 134 in the Queen's Printers copies of the said Act (except so much of the said One hundred and thirty-first Section as relates to the venue in a declaration upon a writ of revivor) shall extend and apply to the Court.

Death, Marriage, and Bankruptcy.

86. All the provisions with respect to the effect of death, marriage, and bankruptcy upon the proceedings in an action which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 135, 136, 137, 138, 139, 140, 141, and 142 in the Queen's Printers copies of the said Act, except the words "two terms" in the said One hundred and thirty-ninth Section, shall extend and apply to the Court; and the said Section numbered 139 shall be read as if the words "three months" had been used therein in-

stead of the words "two terms," and the said Section 138 as so applied shall be read as if instead of the words "shall be served together" the words "shall be filed together" had been used; and the said Section 142 as so applied shall be read as if instead of the words "Judge's Order" the words "Order of the Court or of a Judge" had been used, and as if instead of the words "Judge may order" the words "Court or any Judge thereof may order" had been used therein.

Arrest of judgment, and judgment non obstante veredicto.

87. All the provisions with respect to the proceedings upon motions to arrest the judgment, and for judgment *non obstante veredicto*, which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 143, 144, and 145 (except such part of the Section numbered 143 in the said Act as relates to a motion in arrest of judgment, pursuant to the first of *William* the Fourth, chapter seven), shall extend and apply to the Court.

Removal of judgments into the superior courts.

88. In all cases where final judgment shall be obtained in any suit brought in the Court, and also in all cases where any rule or order shall be made by the Judge for the payment of any sum of money, or any costs, charges, or expenses, it shall be lawful for any Judge of any of the superior courts, either in term or vacation, upon the application of any person entitled to the benefit of such judgment, rule, or order, and upon the production of such judgment, rule, or order, under the seal of the Court and signature of the proper officer, to direct such judgment, rule, or order to be removed into the superior court, and thereupon such judgment, rule, or order shall be of the same effect as a judgment recovered in or a rule or order made by such superior court, and all proceedings shall and may be immediately had and taken thereupon, or by reason or in consequence thereof, as if such judgment so recovered, or rule or order so made, had been originally recovered in or made by the superior court; and all the reasonable costs and charges of such application and removal shall be recovered in like manner as if the same were part of such judgment, rule, or order.

And as to Granting New Trials, Entering Nonsuits, &c.

Rules to enter verdict, &c., may be moved before any of the courts at Westminster by leave.

89. If upon the trial of any issue the Judge shall grant leave to the Plaintiff or Defendant to move in any one of the superior courts to set aside a verdict or nonsuit, and to enter a verdict for the Plaintiff or Defendant, or to enter a nonsuit, or to arrest the judgment, or for judgment *non obstante veredicto*, as the case may be, or for a new trial, the party to whom such leave may have been given may apply by motion to such superior court within such period of time as the Judge shall then appoint for a rule to show cause why such verdict or nonsuit should not be set aside, and a verdict entered for the Plaintiff or Defendant, or a nonsuit entered, or the judgment arrested, or judgment *non obstante veredicto* entered, or why a new trial should not be had, as the case may be, in such action, which superior court is hereby authorised and empowered to grant or refuse such rule (which rule, when granted, shall operate as a stay of proceedings until the determination thereof), and afterwards to proceed to hear and determine the merits thereof, and to make such orders thereupon and as to the costs as the same Court shall think proper; and in case such Court shall order a new trial to be had in any such action, the party obtaining such Order shall deliver the same, or an office copy thereof, to the Registrar, and thereupon all the proceedings on the former verdict or nonsuit shall cease, and the action shall proceed to trial according to the practice of the Court in like manner as if no trial had been had therein; or in case the Court before whom such rule shall be heard shall order the same to be discharged, the party obtaining any such Order may, upon delivering the same, or an office copy thereof, to the Registrar, be at liberty to proceed with any such action as if no such Rule Nisi had been obtained; and if a verdict be ordered to be entered for the Plaintiff or Defendant, or a nonsuit be ordered, or judgment be ordered to be arrested, or judgment *non obstante veredicto* be ordered to be entered, as the case may be, judgment shall be entered accordingly; and the proceedings to set aside the verdict and order a new trial to be had or to enter a verdict for either party, according to

leave reserved at the trial, shall be the same as in ordinary cases.

Judge's power of granting new trials, &c., preserved.

90. Nothing herein contained shall prevent the Judge from granting a new trial, or setting aside a nonsuit, or entering a nonsuit or a verdict.

New trials may be moved for in the superior courts on certain conditions.

91. It shall be lawful for any party to any suit in the Court who shall be dissatisfied with any verdict or judgment given on any nonsuit entered against him in any action which shall have been tried in the Court to apply, within one month next after such verdict or judgment given or nonsuit entered, to any of the superior courts, or to any Judge of any of the said courts, for a rule to show cause why a new trial of such action should not be granted, or nonsuit set aside and a new trial granted, or a verdict entered, or judgment for the Plaintiff or Defendant, or a nonsuit entered, as the case may be, in the same manner as is customary in actions depending in the superior courts and tried at Nisi Prius before any Judge of Assize by virtue of any record in any of the superior courts, and thereupon it shall be lawful for any of the superior courts, or any Judge of one of the superior courts to grant such rule and to hear and determine the merits of the same in like manner as in actions depending in the superior courts and tried as aforesaid; and in case any of the superior courts, or any Judge of one of the superior courts shall make the rule absolute (which they are severally empowered to do upon such terms as they shall respectively think reasonable), then on delivery of an office copy of such rule by the party who shall have obtained the same to the Registrar all proceedings upon the former verdict, judgment, or nonsuit so obtained in the Court shall cease, and the said action shall proceed anew to a trial in the Court, or a verdict or judgment for the Plaintiff or Defendant or a nonsuit shall be entered according to the tenor of such absolute rule: provided always that it shall not be lawful for any party to move for any such rule, nor shall any such rule be of any force unless and until the party intending to apply for such rule shall become bound by recognisance, with two sufficient sureties to be approved by the Registrar in such reasonable

sums as he shall deem sufficient for the security of the party against whom such rule is to be applied for, that the party intending to apply for such rule will, in case such rule is not granted, or in case it be granted and not made absolute, pay the debt, damages, and costs, or the damages and costs, or costs, as the case may be, adjudged or to be adjudged, and all costs incurred by the other party in showing cause against the rule; provided that no proceedings upon such verdict, judgment, or nonsuit shall be stayed, where such application is not made by leave of the Judge, until such security shall have been given, but the giving of such security shall operate as a stay of proceedings until the expiration of the said month, and until the decision of the rule, in case such rule to show cause be granted within such month, but when the application shall be made by leave of the Judge such leave shall operate as a stay of proceedings for one month.

And as to Proceedings in Error.

Provisions of 15 & 16 Vict. c. 76, as to proceedings in error extended to the Court.

92. All the provisions with respect to Proceedings in Error which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, and 167 in the Queen's Printers copies of the said Act, shall extend and apply to the Court: Provided always, that error may be brought in any of Her Majesty's superior courts, and that it shall not be necessary to bring the judgment roll into the superior court in which error shall be brought as required and provided by the said Section numbered 155 in the Queen's Printers said copies, but it shall be sufficient in the place thereof to transmit to the superior court a transcript of the record of any judgment or proceeding in the Court on which error is alleged, and that the judgment of the superior court thereon shall be certified by the proper officer of the superior court, or by rule of court, as the superior court may direct, and thereupon such judgment shall be entered on the original record in the Court, and such further proceedings as may be necessary thereon shall be

Proviso.

awarded by the Court, subject to the right of either party to allege errors in the said judgment in the superior court, and proceed thereon as provided by "The Common Law Procedure Act 1852," in the case of errors alleged in actions depending in such superior court.

No execution shall be stayed by writ of error except on certain conditions.

93. No execution shall be stayed or delayed upon or by any Writ of Error, or Supersedeas thereon, to be sued for the reversing of any judgment given in the Court, unless the person or persons in whose name such writ shall be brought shall become bound by recognisance with two sufficient sureties, to be approved by the Registrar, in such reasonable sums and in such manner as the Registrar shall deem sufficient for the security of the other party, to prosecute the said writ with effect, and if the said judgment be affirmed, or the said writ be not proceeded in, to satisfy and pay the amount of such judgment, and all costs and damages sustained by the delaying of execution, and all costs of error: Provided always, that a Judge of any of the superior courts may order execution to be stayed upon any such judgment by a writ of error returnable in any superior court without such security as aforesaid.

And as to Actions of Ejectment.

Certain provisions of 15 & 16 Vict. c. 76, as to ejectment extended to the Court.

94. All the provisions contained in the Sections of "The Common Law Procedure Act 1852," numbered 168, 169, 170, 171, 172, 174, 175, 176, 177, 178 (except such part thereof as relates to the Sheriff being directed to summon a Jury), 179, 180, 181, 183, 184, 185, 186, 187, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 218, and 221 in the Queen's Printers copies of the said Act, so far as such provisions extend or are or may be applicable to an action of ejectment between landlord and tenant, shall extend and apply to the Court, but

but certain sections of 15 & 16 Vict. c. 76, to be read as herein stated.

the sections as applied to the Court shall be read as if instead of the words "a Judge," and instead of the word "Sheriff," the word "Registrar" had been used therein; and such parts of the provisions and enactments contained in the before-men-

tioned sections as relate to the time within which such judgment may be signed and execution issue shall not be so extended or applied, and in lieu thereof judgment may be signed and execution issued on any day subsequent to the day on which the issue may come on to be tried, unless the Judge shall order proceedings to be stayed.

Judgment for not proceeding to trial after notice.

95. If, after appearance entered, the claimant without going to trial allow the time allowed for going to trial by the practice of the Court in ordinary cases after issue joined to elapse, the Defendant in ejectment may give ten days' notice to the Claimant to proceed to trial at the sittings holden for the trial of issues next after the expiration of the notice, and if the Claimant afterwards neglect to give notice of trial for such sittings, or to proceed to trial in pursuance of the said notice given by the Defendant, unless the time for going to trial shall be extended by the Registrar, the Defendant may sign judgment in the form contained in the Schedule (A) to "The Common Law Procedure Act 1852" annexed, marked number 19, and recover the costs of defence.

And as to Amendments.

Amendments.

96. It shall be lawful for the Judge or the Registrar at all times to amend all defects and errors in any proceeding, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not, and all such amendments may be made with or without costs, or upon such terms as to the Judge or Registrar, as the case may be, may seem fit, and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made.

And as to Evidence, Documents, Witnesses, and Affidavits.

Admission of documents.

97. All the provisions with respect to the admission of documents which are contained in the Sections of "The Common Law Procedure Act 1852," numbered 117, 118, and 119 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Production and inspection of documents.

98. In any action or proceeding in the Court the Registrar may, on application, made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped in all cases in which a discovery might heretofore have been obtained by filing a Bill, or by any other proceeding in a Court of Equity, at the instance of the party so making application as aforesaid.

Affidavits, before whom to be made

99. In every case in which, according to the practice of the Court, any affidavit may be filed, read, or used for any purpose whatsoever, or in any manner howsoever, the same affidavit shall and may be made before the Judge or the Registrar, or before any Commissioner for taking affidavits in any of Her Majesty's Superior Courts at *Westminster*, or before any Commissioner for taking affidavits in the Court of Common Pleas at *Lancaster*.

Witnesses out of jurisdiction may be served with subpœna.

100. When any Subpœna ad Testificandum, or any process in the nature thereof, shall be issued by either party in any suit depending in the Court, and the party to whom the same shall be issued shall be residing out of the Hundred, the service of such subpœna or other process in any part of *England* or *Wales* shall be as valid as if the same had been served within the Hundred: and the party at whose instance such subpœna or process was issued shall have all the same remedies against the person named therein in case of non-attendance as he would have had in case such person were resident within the Hundred, and had been duly served therein with such subpœna or process.

And as to the Examination of Witnesses unable to attend the Trial of any Issue, and of Witnesses Abroad.

Depositions of witnesses may be taken.

101. The Registrar may in any action where a consent to the jurisdiction of the Court shall have been signed and filed

as hereinbefore mentioned, upon the application of any of the parties thereto, order the examination on oath, upon interrogatories or otherwise, before the Registrar or other person to be named in such order, of any witness or witnesses in any part of *England* or *Wales*, and by the same or any subsequent Order or Orders may give all such directions touching the time, place, and manner of such examination, and all other matters and circumstances connected with such examination, as may appear reasonable and just.

Compelling attendance of witnesses or production of documents.

102. When any such Order shall be made the Registrar may, in and by the first or any subsequent Order, command the attendance of any person to be named in such Order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such Order, and may direct the attendance of any such person to be at his own place of abode, or elsewhere if necessary or convenient so to do; and the party at whose instance such Order may have been made and issued shall have all the same remedies against such person in case of non-attendance as he would have against any person for non-attendance in obedience to any Writ of Subpœna ad Testificandum duly served according to the practice of the Court; provided that, in addition to the service of the Order, an appointment of the time and place of attendance in obedience thereto, signed by the person appointed to take the examination, shall be also served together with or after the service of such Order: Provided also, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial: Provided also, that no person shall be compelled to produce under any such Order any writing or other document which he would not be compellable to produce at a trial of the cause.

Payment of expenses.

As to production of documents.

Commission may be issued by a Judge of a superior court to examine witnesses abroad.

103. Upon the application of any of the parties to any such action depending in the Court, any one of the Judges of the Superior Courts at *Westminster* may order a commission to issue for the examination of witnesses upon oath at any

place or places beyond the limits of *England* and *Wales* by interrogatories or otherwise, and by the same or any subsequent Order or Orders may give all such directions touching the time, place, and manner of such examination, and all other matters and circumstances connected with such examination as may appear reasonable and just.

Examination of prisoners.

104. Any sheriff, gaoler, or other officer having the custody of any prisoner may take such prisoner for examination at the place or places named in any such Order, by virtue of Writ of Habeas Corpus to be issued for that purpose, which writ shall and may be issued by any Judge of the superior courts under such circumstances and in such manner as such Judge may now by law issue the writ commonly called a "Writ of Habeas Corpus ad Testificandum."

Examination of witnesses to be taken upon oath.

105. The person authorised to take the examinations of witnesses by any such Order or Commission as herein mentioned shall and may take all such examinations upon oath to be administered by the person so authorised; and if upon such oath any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the county where such evidence shall be given, or in the county of *Middlesex* if the evidence be given out of *England*.

The persons appointed for taking examinations may report to the Court.

106. The Registrar, or any other person named in any such Order or Commission to take any examination in pursuance thereof may and he is hereby required to make, if need be, a special report to the Judge touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto, and the Judge is hereby authorised to institute such proceedings and make such Order or Orders upon such report as justice may require, and as may be instituted and made in any case of contempt of Court.

Costs of Order and proceedings.

107. The costs of every Order to be made for the examination of witnesses by virtue of the provisions herein contained, and of the proceedings thereupon, shall be costs

in the cause, unless otherwise directed either by the Judge of the superior court making such Order or by the Registrar.

Restriction as to reading depositions.

108. No examination or deposition to be taken by virtue of the provisions herein contained shall be read in evidence without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the Judge that the examinant or deponent is not in *England* or *Wales*, or is dead, or unable from permanent sickness or other permanent infirmity to attend the trial; in all or any of which cases the examinations and depositions certified under the hand of the Commissioner, Registrar, or other person taking the same shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions.

And as to Interpleader.

Interpleader by Defendant in action.

109. Upon application by or on behalf of any Defendant in any action in the Court made after declaration and before plea on affidavit or otherwise showing that such Defendant does not claim any interest in the subject matter of the action, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such Defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action in such manner as the Court may order or direct, it shall be lawful for the Registrar to issue a summons calling upon such third party to appear before him, and to state the nature and particulars of his claim, and maintain or relinquish his claim, which summons may be served upon such third party in any part of *England* or *Wales*; and upon the return of such summons the Registrar may hear the allegations as well of such third party as of the Plaintiff, and in the meantime stay the proceedings in such action, and finally order such third party to make himself Defendant in the same or some other action, or to proceed to trial on one or more issue or issues, and may also direct which of the parties shall be Plaintiff or Defendant on such trial, or

with the consent of the Plaintiff and such third party, their counsel or attorneys, may dispose of the merits of their claims, and determine the same in a summary manner, and make such rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

Judgment and decision final.

110. The judgment in any such action or issue as may be so directed, or in case of no such direction the decision of the Registrar summarily as aforesaid, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

Claim of party not appearing barred.

111. If such third party being duly served with a copy of such summons as before mentioned shall not appear upon such summons to maintain or relinquish his claim, or shall neglect to comply with any Rule or Order made after such appearance, it shall be lawful for the Registrar to declare such third party, and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original Defendant, his executors, or administrators, saving nevertheless the right or claim of such third party against the Plaintiff, and thereupon to make such order between such Defendant and the Plaintiff as to costs and other matters as may appear just and reasonable.

And for Relief of the Head Bailiff.

Relief of Head Bailiff in execution of process against goods.

112. When any claim shall be made to or in respect of any goods or chattels taken or intended to be taken in execution under the process of the Court, or to or in respect of the proceeds or value thereof, by any landlord for rent, or by any person not being the party against whom such process has issued, it shall be lawful for the Registrar, upon application of the Head Bailiff or any of his officers made before or after the return of such process, and as well before as after any action brought against such Head Bailiff or any of his officers, to issue a summons calling before the Court as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in any of Her Majesty's superior courts, or in the

Court of Common Pleas at *Lancaster*, or in any local or inferior Court of Record, in respect of such claim, shall be stayed; and the Court in which such action shall have been brought, or any Judge thereof, on proof of the issue of such summons, and that the goods and chattels were so taken in Execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons; and the Registrar shall thereupon exercise, for the adjustment of such claims and the relief and protection of the Head Bailiff or any of his officers, all or any of the powers and authorities hereinbefore contained, and make such rules and decisions as shall appear to be just according to the circumstances of the case, and the costs of all such proceedings shall be in the discretion of the Registrar; and the Head Bailiff or his officers shall retain possession of such goods and chattels so taken in execution as aforesaid until the Court shall have so decided as aforesaid, or until it shall otherwise order, unless the party claiming such goods or chattels shall deposit with the Head Bailiff the amount in money for which the same were taken or intended to be taken in execution, and all costs and expenses of taking and keeping the same, and such sum as the Registrar shall fix to answer the costs of and incident to interpleading.

Rules, &c., may be entered of Record.

113. All Orders, Rules, matters, and decisions to be made and done in pursuance of the before-mentioned interpleader provisions, except only the affidavits to be filed, may, together with the declaration in the cause (if any), be entered of Record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such Rule or Order; and every such Rule or Order so entered shall have the force and effect of a judgment; and in case any costs shall not be paid within five days after notice of the taxation and the amount thereof given to the party ordered to pay the same, or his attorney, execution may issue for the same by Fieri Facias or Capias ad Satisfaciendum, according to the nature of the case, together with the costs of such entry and of the execution;

and the Head Bailiff executing such writ shall be entitled to the same fees, and no more, as upon any similar writ grounded upon a judgment of the Court.

Attendance of witnesses.

114. Any of the parties to such application or hearing shall be at liberty to issue a subpœna, and shall have the same powers of compelling the attendance of witnesses to give evidence on the hearing of the said summons, and shall have all the same remedies against such persons in case of non-attendance, as are hereinbefore contained with regard to witnesses in actions.

And with respect to Incorporation with this Act of the Provisions of other Acts.

Certain provisions of the "Common Law Procedure Act 1854," extended to the Court.

115. All the provisions of "The Common Law Procedure Act 1854" (except such as are contained in the Sections of the said Act numbered respectively 2, 17, 75, 76, 77, 88, 95, 97, 98, and the whole of the 99th Section, except so much thereof as explains the meaning of the word "Action," and also except Sections 100, 101, 102, 104, 105, and 107 in the Queen's Printers copies of the said Act) shall extend and apply to the Court.

All powers, &c., by law vested in inferior courts of Record in which a barrister of five years' standing presides as Judge granted to the Court.

116. All powers, authorities, jurisdictions, and privileges which are now by virtue of any public general Act of Parliament vested in and may be exercised by inferior Courts of Record in which a barrister of not less than five years standing presides as Judge, or which are vested in or may be exercised by the Judge or any Officer of such inferior Court of Record, shall be and the same powers, authorities, jurisdictions, and privileges are hereby granted to and vested in, and may henceforth, in addition to the other powers and authorities granted by this Act, be exercised by the Court, and the Judge and officers thereof respectively, except in so far as the same may be in anywise inconsistent with the provisions of this Act; and all the provisions contained in the Act for the regulation of Municipal Corporations in *England* and *Wales*, and in the several Acts for the amendment thereof, and in the several Acts passed for the Administration of

Justice in Boroughs, and for regulating the proceedings of Borough Courts in *England* and *Wales*, shall be applicable and applied to the Court, except in so far as the same may be in anywise inconsistent with the provisions of this Act.

Certain provisions of 18 & 19 Vict. c. 67, extended to the Court.

117. All the provisions of "The Summary Procedure on Bills of Exchange Act 1855," except such as are contained in the Sections numbered respectively 8, 9, and 10 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Certain provisions of 23 & 24 Vict. c. 126, extended to the Court.

118. All the provisions of "The Common Law Procedure Act 1860," except such as are contained in the Sections of the said Act numbered respectively 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 22, 23, 24, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 46 in the Queen's Printers copies of the said Act, shall extend and apply to the Court.

Provisions of 15 & 16 Vict. c. 76, as to pleadings, &c., extended to proceedings under 17 & 18 Vict. c. 125, 18 & 19 Vict. c. 67, and 23 & 24 Vict. c. 126, hereby extended to the Court.

119. Save as hereinbefore excepted, all the provisions as to pleadings and practice contained in "The Common Law Procedure Act 1852," and the rules of practice of the Court to be made in pursuance of this Act, together with the rules of pleading in the Superior Courts of Law at *Westminster*, which at the time of this Act coming into operation may be in force so far as the same are or may be made applicable, shall, with such alterations as the nature of the action, the description of the Court, the character of the parties, or the circumstances of the case may render necessary, extend or apply to all proceedings to be had or taken under "The Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," respectively, but any variance therefrom, not being a matter of substance, shall not affect their validity or regularity.

Powers of superior court or Judge to be exercised by the Judge.

120. All the authorities, powers, or duties exercisable by a Judge or any number of Judges under any of the Sections of "The Common Law Procedure Act 1852," "The "Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," by this Act extended

and applied to the Court, and which are not otherwise provided for by this Act, shall, as regards matters to be done under the authority of this Act, be exercisable and exercised by the Judge.

Powers of a Master of superior court to be exercised by the Registrar.

121. All the authorities, powers, or duties exercisable by a Master or any number of Masters under any of the Sections of "The Common Law Procedure Act 1852," "The "Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," by this Act extended and applied to the Court, and which are not otherwise provided for by this Act, shall, as regards matters to be done under the authority of this Act, be exercisable and exercised by the Registrar of the Court.

Powers of a Master and Judge under the Common Law Procedure Acts and Summary Procedure on Bills of Exchange Act extended to Judge and Registrar.

122. All the authorities, powers, or duties exercisable by a Master and Judge or any number of Judges, or a Master and any number of Masters and a Judge, or any number of Masters and any number of Judges, under any of the Sections of "The Common Law Procedure Act 1852," "The Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," by this Act extended and applied to the Court, and which are not otherwise provided for by this Act, shall, as regards matters to be done under the authority of this Act, be exercisable and exercised by the Judge or Registrar.

Powers of Sheriff under Common Law Procedure Acts and Summary Procedure on Bills of Exchange Act extended to Head Bailiff.

123. All the authorities, powers, and duties exercisable by a Sheriff under any of the sections of "The Common Law Procedure Act 1852, "The Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," by this Act extended and applied to the Court, and which are not otherwise provided for by this Act, shall, as regards matters and proceedings to be done under the authority of this Act, be exercisable and exercised by the Head Bailiff of the Court.

Forms referred to in the Common Law Procedure Acts and the Summary Procedure on Bills of Exchange Act applied to the Court.

124. All forms referred to in the sections of "The Common Law Procedure Act 1852," "The Common Law Procedure Act 1854," "The Summary Procedure on Bills of

Exchange Act 1855," and "The Common Law Procedure Act 1860," extended and applied to this Court, may from time to time be modified and altered by the Judge by a Rule or Rules of Court so as to adapt them to the Court, and no Rule made for this purpose only shall require any assent of a Judge of one of the superior courts, or of any other person; and the said forms so modified and altered shall have the effect as to all proceedings in or by the Court which the said forms in "The Common Law Procedure Act 1852," "The Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," have as to proceedings in the superior courts.

Power to take Recognisances.

125. The Registrar shall have power to take any recognisance which under the provisions of this Act or of "The Common Law Procedure Act 1852," "The Common Law Procedure Act 1854," "The Summary Procedure on Bills of Exchange Act 1855," and "The Common Law Procedure Act 1860," by this Act extended to the Court, any person may be required to make or enter into, or which under the same provisions may be lawfully made or entered into, and any such recognisance so taken shall be good and valid.

And as to General Rules of the Court.

General Rules may be made.

126. General rules for the regulation of the procedure and practice of the Court, and of the officers thereof and the practitioners therein, may be made from time to time, and for such purpose the powers contained in and conferred by the Sections of "The Common Law Procedure Act 1852" numbered 223, 224, and 225 in the Queen's Printers copies of the said Act, and also the powers contained in and conferred by the Sections of "The Common Law Procedure Act 1854" numbered 97 and 98 in the Queen's Printers copies of the said Act, and also the powers contained in and conferred by the Sections of "The Common Law Procedure Act 1860" numbered 37 and 38 in the Queen's Printers copies of the said Act, shall and may from time to time be exercised by the Judge, but such Rules shall be from time to time subject to

the approval in writing thereof by one of the Judges of the superior courts, and from and after such approval from time to time as aforesaid the same shall be in full force and effect until the same shall be with the like approval altered or amended.

In cases not provided for, Rules of superior courts may be adopted.

127. In any case not expressly provided for herein, or by the Rules of the Court for the time being in force, the general principles of practice in the superior courts shall be applicable, and may be adopted and applied to actions and proceedings in the Court.

If Rules of Court cannot be enforced, they may be made rules of one of the superior courts.

128. In case any Rule of the Court cannot be enforced by reason of the non-residence of any party within the Hundred or otherwise, it shall be lawful, upon a Certificate of such Rule by the Judge or by the Registrar, and an Affidavit that by reason of such non-residence or otherwise such Rule cannot be enforced as aforesaid, to make such Rule a Rule of any one of the superior courts, if such superior court or any Judge thereof either in term or vacation shall think fit, whereupon such Rule shall be enforceable and enforced in the same manner as a Rule of such superior court may be enforced.

And as to Writs of Certiorari to Remove Causes.

Causes not to be removed before Judgment, except by Judge's Order, or on security.

129. No cause depending within the Court shall be removed by any Defendant before judgment therein into any superior court (except in pursuance of a Judge's Order as hereinafter mentioned) unless the Defendant, with two sufficient sureties such as the Registrar shall allow, shall first become bound by recognisance to the Plaintiff in the cause, or as the Registrar shall direct, in such sufficient sum for the payment of the debt or damages and costs as the Registrar shall fix in that behalf, in case judgment shall pass against the Defendant in the superior court, or in the Court in case the cause shall be brought back by Writ of Procedendo: Provided always, that any Judge of any of the superior courts may, in the exercise of his discretion, order a Writ of Certiorari to issue to remove any such cause depending in the Court into any of the superior courts

without such surety as aforesaid, and that such cause may be removed into such superior court accordingly.

Writs to remove causes to be lodged within a month after declaration.

130. No cause depending in the Court shall be removed before judgment therein into any superior court unless the writ for removing such cause shall have been lodged with the Registrar within one calendar month next after notice of the filing of the declaration, and before such action shall have been entered for trial according to the practice of the Court.

And as to Costs.

Plaintiff recovering less than £10 by verdict to have no costs unless Judge certifies.

131. If in any action brought in the Court which could have been brought in a County Court and the verdict recovered is for a less sum than ten pounds, the Plaintiff shall not recover from the Defendant a greater amount of costs than he would have been allowed if the action had been brought in such County Court, unless the Judge shall certify that the action was a fit one to be brought in the Court, and it shall not be necessary to enter any suggestion on the Record to deprive such Plaintiff of costs.

Judge may certify to entitle Plaintiff to costs.

132. If the Plaintiff shall in any action recover a less sum than the sum in that behalf hereinbefore mentioned by verdict, and the Judge shall certify on the Record that it appeared to him that the action was a fit one to be brought in the Court, the Plaintiff shall in such case have judgment to recover his full costs of suit.

Where no verdict Plaintiff to recover costs.

133. If the Plaintiff in any action shall recover a less sum than the sum in that behalf hereinbefore mentioned, where there is no verdict, the Plaintiff shall in such case have judgment to recover his full costs of suit.

Miscellaneous.

Gaol for custody of persons in execution.

134. The gaol of the city shall be the gaol for the custody of persons in execution under the process of the Court to which the Head Bailiff may and shall take such persons so in execution when he might or ought by law to take them to prison; and the Governor of the said gaol

shall receive every such person so brought to him, and the Head Bailiff, on delivering such person to the said Governor, shall be discharged from all responsibility in reference to the custody of such person; and every such Governor shall thereupon be responsible for the safe custody of such person, and liable for any escape or escapes in like manner as sheriffs and gaolers having the custody of persons in execution are by law responsible, but not otherwise.

Provisions as to debtors in execution to extend to persons in custody under Orders, &c.

135. All the provisions hereinbefore contained in reference to the custody of the bodies of persons in execution under process of the Court shall apply to persons in custody under any Order, Rule, Process, Attachment, or other proceeding of the Court in the same manner in all respects as the same apply to persons in custody in execution as aforesaid.

Persons committed under 8 & 9 Vict., c. 127, may be sent to city gaol.

136. All persons committed to custody by the Judge under the provisions of the Act of the Eighth and Ninth *Victoria*, chapter one hundred and twenty-seven, may be committed, if the Judge shall think fit, to the gaol of the city, anything in the last-mentioned Act to the contrary notwithstanding.

Warrants of Commitment under 8 & 9 Vict., c. 127, may be executed out of Hundred.

137. All warrants of commitment under the provisions of the last-mentioned Act may be executed anywhere in *England* or *Wales*, provided the same, if executed out of the Hundred, shall be previously signed or endorsed in manner by the same Act provided.

Limitation of actions for proceedings in execution of this Act.

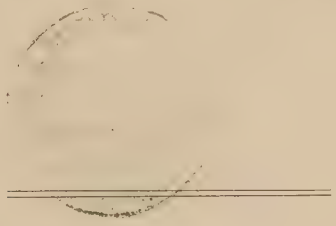
138. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within one year after the Act committed, and not afterwards or otherwise, and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action, and no plaintiff shall recover in any action if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the defendant.

Compensation to the Corporation of Salford.

139. The Council shall pay to the Corporation of the Borough of *Salford* out of the city fund in the first instance such sum of money as may be hereafter agreed upon by the Mayor and the Mayor of the Borough of *Salford*, or, in case of their differing, shall be determined by a person to be appointed by the Judge for the time being of the County Court of *Lancashire* holden at *Manchester*, in satisfaction of the costs which have been incurred by the Corporation of the said borough in respect of the accommodation heretofore made for the hearing of the causes of the Court of Record for the Hundred of *Salford* as existing prior to this Act, and such reference shall be subject to and in accordance with the provisions as to compensation by arbitration of "The Lands Clauses Consolidation Act 1845," and for the purpose of such reference the Council shall be deemed to be the undertakers within the meaning of that Act.

Expenses of Act.

140. The costs of and relating to the passing of this Act shall in the first instance be paid out of the city fund.



CHAPTER II.

Places within the Jurisdiction of the Court.

The Salford Hundred contains within it the several *parishes*, *places*, *townships*, and *districts* following, viz.:—

Places within the Jurisdiction of the Court.

The jurisdiction of the Court is co-extensive with the Hundred of Salford, including the City of Manchester, and comprises the places, townships, and districts following, viz.:—

Parish of Ashton-under-Lyne, containing Ashton Town District, Audenshaw District, Hartshead District, and Knott Lanes District.

Extra Parochial Place or Township of Beswick.

Parish of Bolton-le-Moors, containing the townships of Anlezark, Blackrod, Great Bolton, Little Bolton, Bradshaw, Breightmet, Edgeworth, Entwistle, Harwood, Darcy Lever, Longworth, Lostock, Quarlton, Rivington, Sharples, Tonge-with-Haulgh, and Turton.

The jurisdiction of the Court in the Borough of Bolton is excluded where the claim does not exceed £5.

The following out-districts are now included within the municipal Borough of Bolton:—Astley Bridge, Breightmet, Darcy Lever, Deane, Lostock, Great Lever, Heaton, Middle Hulton, East Ward of Over Hulton, Smithills, and Tong.

Parish of Bury, containing the townships of Bury, Elton, Heap, Tottington Lower End, Tottington Higher End, Walmersley, and Shuttleworth.

Parish of Dean, containing the townships of Farnworth, Halliwell, Heaton, Horwich, Little Hulton, Middle

Hulton, Over Hulton, Kearsley, Rumworth, and Westhoughton.

Parish of Eccles, containing the townships of Barton-upon-Irwell, Clifton, Pendlebury, Pendleton, and Worsley.

Parish of Flixton, containing the townships of Flixton and Urmston.

Parish of Manchester, containing the townships of Ardwick, Blackley, Bradford, Broughton, Burnage, Cheetham, Chorlton-cum-Hardy, Chorlton-upon-Medlock, Crumpsall, Denton, Didsbury, Droylsden, Failsworth, Gorton, Harpurhey, Heaton Norris, Houghton, Hulme, Levenshulme, Manchester, Moss Side, Moston, Newton, Openshaw, Reddish, Rusholme, Salford, Stretford, and Withington.

Parish of Middleton, containing the townships of Ainsworth, Ashworth, Birtle-with-Bamford, Hopwood, Great Lever, Middleton, Pilsworth, and Thornham.

Parish of Prestwich-cum-Oldham, containing the townships of Alkrington, Chadderton, Crompton, Great Heaton, Little Heaton, Oldham, Pilkington, Prestwich, Royton, and Tonge.

The Borough of Oldham is excluded from the jurisdiction of the Court in any cause whereof the County Court of Oldham hath cognisance.

Parish of Radcliffe.

Parish of Rochdale, containing the townships of Blatchinworth and Calderbrook, Butterworth, Castleton, Spotland, Todmorden, Walsden, Wardleworth, Whitworth, Brandwood, Wuerdle, and Wardle.

The jurisdiction of the Court in the Boroughs of Rochdale and Heywood is excluded where the claim does not exceed £5.

Parish of Wigan, containing the township of Aspull.

The orders of exclusions in regard to the Boroughs of Bolton, Rochdale, Heywood, and Oldham read as follows:—

At the Court at Osborne House, Isle of Wight.

The 16th Day of August 1886.

PRESENT:

The Queen's Most Excellent Majesty in Council.

It was ordered that from and after the 30th day of September 1886, the jurisdiction of the Salford Hundred Court shall be excluded in all causes whereof, by reason of the cause of action arising or of any defendant dwelling or carrying on business within the municipal limits of the Borough of Bolton, the County Court of Lancashire holden at Bolton hath cognisance, and wherein the debt or damages sought to be recovered shall not exceed the sum of five pounds.

(Signed) C. L. Peel.

Borough of Heywood.

Notice.

By an Order of Her Majesty in Council, dated 15th March 1893.

It is ordered and declared that from and after the 15th day of April 1893, the jurisdiction of the said Court of Record for the Hundred of Salford shall be excluded throughout the whole of the districts assigned, or which may hereafter be assigned to the County Courts of Lancashire holden at Bury and Rochdale respectively, in all causes whereof (by reason of the cause of action arising or of any defendant dwelling or carrying on business within the municipal limits of the Borough of Heywood) the said County Court, or either of them, have or has for the time being by law cognisance, and wherein the debt or damage sought to be recovered shall not exceed the sum of five pounds.

(Signed) C. L. Peel.

Borough of Rochdale.

Notice.

By an Order of Her Majesty in Council, dated 15th March 1893.

It was ordered that in the case of all causes commenced after this date, whereof by reason of the cause of action arising or the dwelling of any defendant within the municipal limits of the Borough of Rochdale, the County Court of Lancashire, holden at Rochdale, hath cognisance, and wherein the debt or damages sought to be recovered shall not exceed the sum of five pounds, the jurisdiction of the Court of Record for the Hundred of Salford be and the same is hereby excluded.

(Signed) C. L. Peel.

At the Court at Osborne House, Isle of Wight.

The 30th day of December 1878.

Present:

The Queen's Most Excellent Majesty in Council.

It was ordered that from and after the 1st day of January 1879, the whole of the municipal borough of Oldham should be excluded from the jurisdiction of the Salford Hundred Court in all causes whereof the County Court hath cognisance, and that the said Salford Hundred Court should cease to exercise any jurisdiction within the limits of the said municipal Borough of Oldham in all causes whereof the County Court hath cognisance.

(Signed) C. L. Peel.

[*Extract from the Oldham Corporation Act* 1886, *Section* 45.]

It is hereby declared that this borough is excluded from the jurisdiction of the Salford Hundred Court in all causes whereof the County Court of Lancashire has cognisance, and that the Salford Hundred Court has not any jurisdiction

within the limits of the borough in any cause whereof the said County Court hath cognisance, and that it shall not be necessary to object to the jurisdiction of the Salford Hundred Court in any such cause by special plea, and the provisions of the Act of 1868, so far as they confer any jurisdiction upon the Salford Hundred Court with respect to any such cause of action, shall be and the same are hereby repealed.

If any doubt exists in the mind of the practitioner as to whether any particular place is within the jurisdiction of the Court, he should turn to a map of Lancashire. The boundary of the Hundred of Salford will be found delineated by a dotted line, and to make it perfectly plain the same should be carefully run over in red ink.

CHAPTER III.

The Legal Jurisdiction of the Court.

Actions within the Jurisdiction of the Court.

Sections 6, 7, and 8 of the Salford Hundred Court of Record Act read thus:—

The Court has authority to try—

Sec. 6. (1) Personal actions, if the cause of action arise within the Hundred, provided that the Court shall not, except by consent of the parties to be signed and filed as hereinafter mentioned, have cognisance of any action in which the debt or damages sought to be recovered shall exceed the sum of fifty pounds.

(2) Actions of ejectment between landlord and tenant, provided the land of which possession is sought to be recovered is situate in the Hundred, and the annual rent or the annual value of such premises do not exceed fifty pounds, and no fine shall have been paid, reserved, or made payable in respect of such land.

(3) Any action whatsoever (except actions for libels, slander, or for debauching the plaintiff's daughter or servant, wherein the sum sought to be recovered shall exceed fifty pounds), provided a consent to the jurisdiction of the Court in the form contained in the Schedule to this Act annexed, signed by the parties to be made the plaintiff and the defendant respectively in any such action, or by their solicitors respectively, shall be left with the Registrar at the time of the sealing of the writ in the cause, which consent shall be filed by the Registrar, and be of record in the Court.

Provided always, that if in the course of any action (unless a consent has been signed and filed as aforesaid) it shall appear or shall be made to appear upon oath to the Judge or Registrar that the debt or damages sought to be recovered

in any such action, or that the annual rent or the annual value of the land of which possession is sought to be recovered, or in, upon, or in respect whereof any easement or license is claimed, exceeds fifty pounds, or the title to any hereditament, toll, tithe, fair, market, or franchise, or that damages are sought to be recovered in any action for malicious prosecution, shall be in question, then the Judge or Registrar shall order all proceedings in such action to be stayed, upon such terms as to the payment of costs by the plaintiff or otherwise as to the Judge or Registrar may seem just, and such Order shall have the effect of and be enforceable as a rule of Court.

Sec. 7. Save and except as aforesaid, no defendant shall be permitted to object to the jurisdiction of the Court otherwise than by special plea, and if the want of jurisdiction be not so pleaded the Court shall have jurisdiction for all purposes.

Sec. 8. No privilege shall be allowed to any person to exempt him from the jurisdiction of the Court.

Limit of Jurisdiction as to Cause of Action.

An inferior court may exceed its jurisdiction in various ways. It may assume to deal with matters that have arisen beyond its local territorial jurisdiction, or with an amount beyond its pecuniary limit, or it may take cognisance of a subject matter which it has no power to try, either by prescription, grant, or statute; it may employ a process which it has no right to use, or may attempt to affect parties who are not bound by its decisions.

The highly important question, therefore, of the limit of the jurisdiction of the Salford Hundred Court, so far as regards the cause of action, will now be considered.

Turning to Section 6 of the Salford Hundred Court of Record Act, it will be advisable to analyse each portion of the section of the Act.

The primary consideration of this question will save a vast amount of future worry and expense.

Section 6 reads thus:—

> The Court has authority to try—
>
> (1) Personal Actions, if the cause of action arise within the Hundred, provided that the Court shall not, except by consent of the parties, to be signed and filed as hereinafter mentioned, have cognisance of any action in which the debt or damages sought to be recovered shall exceed the sum of fifty pounds.

Personal Actions.—This signifies such actions as are brought for recovery of some debt, or for damages for some personal injury.

If the Cause of Action arise within the Hundred.—This is a very important point, as the solicitor may himself be ordered to pay the costs of a party who obtains from the High Court an Order for a Writ of Prohibition to issue against the Court in respect of the said action,[1] but in that case the rule must be moved in form against the solicitor.[2]

Judicial Definition of a Cause of Action.

In Read *v.* Brown[3] the Master of the Rolls said: "That a cause of action had been defined to mean every fact which is material to be proved to entitle the plaintiff to succeed, every fact which a defendant would have a right to traverse."

Fry, L. J., said: "That everything which, if the plaintiff did not prove it, would give the defendant the right to immediate judgment was part of the cause of action."

In the Salford Hundred Court the WHOLE cause of action must arise within the Hundred.

[1] Wallace *v.* Allen, 10 C. P., 607 (1875).
[2] Rogers *v.* London, Chatham, and Dover Railway Co., 26 W.R., 192 (1878
[3] 22 Q. B. D., 128 (1888).

The case of "Whitehead *v.* Butt"[1] is a direct decision upon this point.

It is proposed here to set out some of the cases bearing upon the question of jurisdiction, but as several of them have reference to the Mayor's Court of London, it may be well first of all to set out in detail the sections of the Mayor's Court of Procedure Act, dealing with the jurisdiction of that Court.

It will then be seen that the Mayor's Court has a wider jurisdiction than the Salford Hundred Court.

THE MAYOR'S COURT OF LONDON PROCEDURE ACT.

20 and 21 Vict., cap. 47.

Sec. 12 reads thus:—

> Where the debt or damage claimed in any action shall not exceed the sum of £50, no plea to the jurisdiction shall be allowed, provided the defendant, or one of the defendants, shall dwell or carry on business at some time within the City of London, or the liberties thereof, at the time of action brought, or provided the defendant, or one of the defendants, shall have dwelt or carried on business at some time within six months next before the time of the action brought, or if the cause of action, either wholly or in part, arose therein.

Sec. 15 reads thus:—

> No defendant shall be permitted to object to the jurisdiction of the Court in or by any proceeding whatsoever, except by plea.

CASES BEARING UPON THE QUESTION OF LIMIT OF JURISDICTION:—

WIRTH *v.* AUSTEN.[2]

Head Note.—The defendant, within the jurisdiction of the Mayor's Court, drew upon a Huddersfield bank a cheque

[1] 7 Times Rep., 609 (1891).
[2] 10 C. P., 689 (1875).

payable to the plaintiff, the defendant having no effects at the Huddersfield bank, and having had notice not to overdraw.

The plaintiff having sued the defendant upon the cheque: Held that the cause of action arose within the jurisdiction of the Court, but such would not be so in a similar case in the Salford Hundred Court, as part of the cause of action arose at Huddersfield.

TAYLOR *v.* JONES.[1]

Head Note.—The defendant, who carried on business in the City of London, posted a letter there containing an order for goods, addressed to the plaintiff in Surrey. No letter was sent accepting the offer, but the goods were taken by a servant of the plaintiff and delivered to the defendant in London: Held that the cause of action arose in the city. Here the Post Office acted as agent for defendant, and the sale, therefore, took place in London, as also the delivery.

EVANS *v.* NICHOLSON.[2]

The plaintiff by letter requested immediate payment of his account, and the defendant wrote the following answer, which was posted *outside* the jurisdiction of the Court, and received by the plaintiff *within* the jurisdiction of the Court:—

> Captain Nicholson is in receipt of Messrs. Benetfink & Co.'s account, and notice of the 8th inst., respecting the amount due, £14. 10*s.* 3*d.*, and regrets that at this moment he is much pressed, but will use every endeavour to remit them, if not by the 15th as requested, as soon after as possible.

The Court decided that the statement of an account is analogous to the acceptance of a contract, and that on the authority of DUNLOP *v.* HIGGINS (1 H. of L. cases 381) an account was here stated by the defendant at the moment when he posted the letter; but, further, that the statement was continuous until it reached the plaintiff, at which time it

[1] 1 C. P. D., 87 (1875).
[2] 32 Law T. Rep. (n. s.), 778 C. A. (1875).

was an account stated to him at the place where he received it. The writ in such case should be endorsed with a claim on an account stated.

The judgments of Lindley, J., Archibald, J., Denman, J., and Lord Coleridge, C.J., in this case are very instructive and important.

Taylor *v.* Nicholls.[1]

Head Note.—The defendant ordered goods off the plaintiff's traveller in Battersea, and they were delivered to him at his place of business in Battersea, where he resided. There was no statement as to the place from which the goods were sent, but after they had been received by him, the defendant, in answer to a letter written to him by the plaintiff's solicitor in King William Street, City, demanding payment of the price, £8. 8*s*. 6*d*., wrote to the solicitor (whether by post or otherwise did not appear) :—

> I will call at your office in the early part of next week, and hope to make some satisfactory arrangement for the payment of Mr. Taylor's claim.

Upon proceedings to restrain the action brought in the Mayor's Court "for goods sold and delivered at the defendant's request, and upon accounts stated": Held a sufficient admission of the debt to support an account stated, and to warrant the Court in assuming that there was a cause of action arising within the jurisdiction of the Mayor's Court.

In cases where these decisions are relied upon as constituting a cause of action within the jurisdiction, the writ of summons must be specially endorsed with the particulars of the account stated, or a defence to the jurisdiction will lie.

It would be beyond the scope of the present work to discuss the question of what is an account stated, as this is a matter of law common to all courts. It may be stated that much information on the subject is to be found in Bullen and

[1] 1 C. P. D., 242 (1876).

Leake's Precedents of Pleadings, and in Fisher's Digest, title, "Money Counts."

Under Section 7 of the Salford Hundred Court of Record Act 1868, the only proceeding in the Salford Hundred Court by which a defendant can object to its jurisdiction is by plea.

HAWES *v.* PAVELEY.[1]

Judgment of Pollock, B. It was a very reasonable provision to say that if the defendant wanted to object to the want of jurisdiction in the Mayor's Court he must do it by way of plea.

CHADWICK *v.* BALL.[2]

Head Note.—Held that the defendant, against whom judgment had been recovered in the Salford Hundred Court, he not having pleaded to the jurisdiction, could not have a Writ of Prohibition on the ground of want of jurisdiction, inasmuch as Section 7 of the Salford Hundred Court of Record Act 1868 under the circumstances conferred jurisdiction on the Court.

The case of ORAM *v.* BREAREY was by this decision overruled, and in giving his judgment Lindley, L.J., said: "The Section (7) is, after all, very just and reasonable; the substance of it is that the defendant should not be allowed first to take his chance in the inferior court and then, after so doing, to turn round and object to the jurisdiction."

The following case has so greatly limited the power of restraining actions in the Salford Hundred Court by Writ of Prohibition that it is here reported in full:—

COURT OF APPEAL.

(*Before* LORD JUSTICE A. L. SMITH, LORD JUSTICE COLLINS, *and* LORD JUSTICE ROMER.)

PAYNE *v.* HOGG.[3]

This was an appeal by the plaintiff from an order of the Divisional Court granting a Writ of Prohibition to the Bailiff

[1] 1 C. P. D., 422 (1876). [2] 14 Q. B. D., 857 (1885).
[3] 1900, 2 Q. B., 43.

of the Salford Hundred Court of Record and to the plaintiff to restrain them from further proceeding on a judgment obtained in that Court. The action was brought in the Salford Hundred Court of Record to recover £16. 0*s*. 9*d*. as money due on a promissory note made by the defendant at Buxton, outside the jurisdiction of the Court, and payable to the plaintiff at Manchester, within the jurisdiction of the Court. The defendant did not appear in the action, and judgment was signed upon default and execution was issued. The defendant thereupon applied for a Writ of Prohibition as above, which Mr. Justice Cozens-Hardy, sitting as the vacation Judge at chambers, granted. The Divisional Court affirmed this Order, upon the ground that Section 7 of the Salford Hundred Court of Record Act 1868 (31 and 32 Vict., c. cxxx.) only applied to cases where a defendant had delivered a defence and had not pleaded to the jurisdiction, and that therefore a defendant who had not appeared and had on that account not been in a position to plead to the jurisdiction was entitled to apply for a Writ of Prohibition on the ground of want of jurisdiction. The plaintiff appealed. Section 6 of the Salford Hundred Court of Record Act 1868 gave the Court jurisdiction in certain cases—namely, where the claim or the value of the subject-matter in dispute did not exceed £50—and contained a proviso that if it should be made to appear upon oath that the claim exceeded the jurisdiction of the Court the Judge or the Registrar should order all proceedings to be stayed. By Section 7, "Save and except as aforesaid, no defendant shall be permitted to object to the jurisdiction of the Court otherwise than by special plea, and, if the want of jurisdiction be not so pleaded, the Court shall have jurisdiction for all purposes."

The Court allowed the appeal.

Lord Justice A. L. Smith said that upon the face of the Writ of Summons in the action there was an intimation that the defendant had to enter an appearance within eight days after service thereof, and that, in default of appearance, judgment might be signed in the defendant's absence. The

defendant did not enter an appearance, and judgment was signed in default, and execution was issued on the judgment. The defendant then applied for a prohibition. On the face of the Writ of Summons everything appeared in order. The first point taken was as to the meaning of "the cause of action" in the Salford Hundred Court of Record Act 1868. In his opinion it was clear that it meant all those matters which together made up the entire cause of action, and those matters must arise within the limited area of the jurisdiction of the Court. In the present case one essential element in the cause of action—namely, the signing of the promissory note, took place at Buxton outside the jurisdiction of the Court. Therefore, apart from Section 7 of the Salford Court Act 1868, that Court had no jurisdiction to entertain this action. The next question was whether the defendant could now set up the objection to the jurisdiction of the Court. The Salford Court was a Court of limited jurisdiction. It was admitted that, if the Court proceeded to try a case dealing with a sum exceeding the amount as to which it had jurisdiction, prohibition would lie. Here the claim was for less than £50. By Section 7 of the Salford Court Act 1868, "no defendant shall be permitted to object to the jurisdiction of the Court otherwise than by special plea, and, if the want of jurisdiction be not so pleaded, the Court shall have jurisdiction for all purposes." The Divisional Court had by their decision added, after the words "by special plea," the words "when the time for pleading came." He (the Lord Justice) could see no reason for adding those words. If the defendant wanted in the present case to object to the jurisdiction, she ought to have appeared and pleaded it. The very point was decided in the Court of Appeal in "Chadwick *v.* Ball." In the absence of a special plea, the Court was to have jurisdiction for all purposes. It seemed to him that the section contained an absolute prohibition against raising the objection to the jurisdiction except by special plea. The words conferred jurisdiction on the Court unless a special plea was put in. Until the defendant came in and showed that the cause of action arose out of the jurisdiction of the Court, all

being right on the face of the record, the Court could proceed and give judgment against her. With regard to the question of the exercise of discretion by the Court in granting a Writ of Prohibition, if it were necessary to consider that point, he would not be inclined to grant a Writ of Prohibition in the circumstances of this case. The appeal must, therefore, be allowed.

Lord Justice Collins agreed. The words "the cause of action" meant the whole cause of action, as explained in "Cooke *v.* Gill," and did not bear the same meaning as the Court in "Jackson *v.* Spittall" placed upon the special words "a cause of action" in Section 18 of the Common Law Procedure Act 1852. With regard to the second point in the case—namely, the construction of Section 7 of the Salford Court Act 1868, he had felt some misgiving, but upon the whole he came to the conclusion that the case was covered by the decision of the Court of Appeal in "Chadwick *v.* Ball." There had been two alternative views —one was that Section 7 was merely a rule of pleading in the Salford Court, and did not enlarge the jurisdiction of the Court, but merely defined the mode in which the objection to the jurisdiction could be taken in the Court itself. That was the view taken in "Oram *v.* Brearey" (2 Ex. D., 346, 1877). The other view was that it was a section enlarging the jurisdiction of the Court, and this view was adopted by the Court of Appeal in "Chadwick *v.* Ball." If they loyally accepted the decision of this Court in "Chadwick *v.* Ball" they must hold that Section 7 conferred jurisdiction on the Salford Court. It was said that it was a curious kind of jurisdiction which depended upon a subsequent event—namely, whether a special plea to the jurisdiction was put on the record. He (the Lord Justice) could see no great difficulty in holding that the Salford Hundred Court had what the learned counsel for the plaintiff called a defeasible jurisdiction in cases where the claim or the value of the subject-matter in dispute did not exceed £50, a jurisdiction which could be ousted only by a special plea being put upon the record. Whether the Judges of the Court of Appeal in

"Chadwick *v.* Ball" had before their minds all the consequences of their decision he did not know, and from what he knew of these local Courts he should have had some misgiving in holding that they had a practically unlimited territorial jurisdiction, leaving it to the defendant to set up the want of jurisdiction by plea. That, however, was a matter for the Legislature. The Court of Appeal had so decided, and he thought that their decision was in accordance with the natural meaning of the words of the section. He agreed also that if the Court had to exercise its discretion in this case the Writ of Prohibition should in the circumstances be refused.

Lord Justice Romer delivered judgment to the same effect.

Moore *v.* Gamgee.[1]

Head Note.—Held that the objection to the jurisdiction was one which could be waived, and that the defendant had waived it, and was not entitled to a prohibition.

Broad *v.* Perkins.[2]

Judgment of Esher, M.R.:—

The court has come to the conclusion that it is within the proposition laid down in the opinion of Willes, J., in the Mayor of London *v.* Cox, and that the proposition is to be accepted as law. It seems to us that the House of Lords adopted that opinion, which was as follows: "When the defect is not apparent and depends upon some fact in the knowledge of the applicant which he had an opportunity of bringing forward in the court below, and he has thought proper, without excuse, to allow that court to proceed to judgment without setting up the objection and without moving for a prohibition in the first instance; considering the conduct of the applicant, the importance of making an end of litigation, *and that the writ, though of right, is not of course,* the court will decline to interfere, except upon an irresistible case and

[1] 25 Q. B. D., 244 (1890), and Schneider *v.* Edelstein, 35 Solr. Jrnl., 416 (1891).
[2] 21 Q. B. D., 533 (1888).

an excuse for the delay, such as disability, malpractice, or matters newly come to the knowledge of the applicant." This rule, however, does not affect the right of the Crown to claim a Writ of Prohibition at any stage.

Ellis *v.* Fleming.[1]

The Court decided that where a portion only of the plaintiff's claim arose within the jurisdiction, and the other portion without the jurisdiction of the Court, the plaintiff might abandon his claim in respect of the latter items, and in that case the rule for a Writ of Prohibition was discharged, but without costs.

But Section 7 does not prevent a party applying for a Writ of Prohibition in cases where he has not submitted to the jurisdiction of the Court by filing pleadings in the Court in the particular action, or has not allowed judgment to go against him in the action by default, but a Writ of Prohibition may not issue after the plaintiff has signed judgment in default of appearance.[2]

Cox *v.* Lord Mayor of London.[3]

Head Note.—Where the foundation for the jurisdiction is itself defective, a prohibition may be applied for at once. The judgment in this case extends over 40 pages, and is well worth perusal.

Jacobs *v.* Brett.[4]

Head Note.—The defendant in a suit in the Lord Mayor's Court may move a superior court for the Writ of Prohibition to stay the proceedings in the suit, the 15th Section of the Mayor's Court Act 1857 applying to objections taken by the defendant in that court only.

Bridge *v.* Branch.[5]

Head Note.—A defendant can himself apply to the superior court to prohibit the Mayor's Court from proceeding

[1] 1 C. P. D., 237 (1876).
[2] Payne *v.* Hogg (1900), 2 Q. B., 43.
[3] L. R. 2 H. L., 239 (1867).
[4] 20 Eq. 1 (1875).
[5] 1 C. P. D., 633 (1876).

further in an action where the Mayor's Court is proceeding without jurisdiction.

The old practice of commencing proceedings in Prohibition in the name of a stranger has been rendered obsolete by the foregoing authorities, and the following cases are in that respect over-ruled :—

CHAMBERS *v.* GREEN, L. R. 20, Eq. 552 (1875).
WORTHINGTON *v.* JEFFRIES, L. R. 10, C. P. 379 (1875).
QUARTLY *v.* TIMMINS, L. R. 9, C. P. 416 (1874).
ROBINSON *v.* EMANUEL, L. R. 9, C. P. 414 (1874).
BAKER *v.* CLARK, L. R. 8, C. P. 121 (1873).
WILLIS *v.* HARRIS, 43 L. J., C. P. 208 (1874).
MANNING *v.* FARQUHARSON, 3 L. T. 378 (1860).

In an unreported case, Bell & Campbell Limited *v.* Hutchinson & Company, heard in January 1903 before Mr. Justice Walton, upon an application for a Writ of Prohibition where it was proved that the whole cause of action did not arise within the jurisdiction of the Salford Hundred Court, and where the application was made without delay immediately after the service of the writ and before judgment, the Court granted a Writ of Prohibition, the Judge deciding that in such case the decision "Payne *v.* Hogg" did not apply. No appeal was however entered against such decision.

Where the want of jurisdiction appears upon the face of the proceedings it cannot be waived, and a Writ of Prohibition must issue.[1]

And the Court is NOT bound to grant a prohibition to a party who has acquiesced in the proceedings of the court

[1] Jones *v.* Owen, 5 Dowe & L., 669 (1848) ; Hudson *v.* Tooth, 3 Q. B. D., 46 (1877) ; Sewell *v.* Jones, 19 L. J. Rep. (N.S.) Q. B.. 372 (1850) ; Cox *v.* Lord Mayor of London, L. R. 2 H. L., 239 (1867) ; Roberts *v.* Humby, 3. M. & W., 120 (1827) ; Farquharson *v.* Morgan, 1894, 1. Q.B., 552 ; McIntosh *v.* Simpkins, 1901, 1. Q.B., 487 ; Lumley *v.* Osborne, 1901, 1. Q.B., 532 ; Alderson *v.* Palliser (1901), 49. W.R., 706 ; Thompson *v.* Ingham (1850), 14. Q.B., 710.

below, except where the absence of jurisdiction is apparent on the face of the proceedings.[1]

An application for prohibition should be applied for "before" execution is issued, and if the execution is satisfied no Writ of Prohibition can issue, as there remains nothing to prohibit.[2]

Upon a review of the cases, it would appear that the following is the present position of the law in regard to applications for prohibition, presuming that the want of jurisdiction does not appear upon the face of the proceedings:—

1. Where the defendant has allowed judgment to go by default he cannot afterwards obtain a Writ of Prohibition.
2. Where the defendant has unconditionally appeared to the Writ of Summons he cannot obtain a Writ of Prohibition.
3. But where the defendant, without appearance to the writ or with a conditional appearance to the writ denying the jurisdiction of the Court, applies immediately for a Writ of Prohibition, he may, upon proof of want of jurisdiction, obtain a Writ of Prohibition, but even upon proof of want of jurisdiction the Court may use its discretion in directing the issue of a Writ of Prohibition.

The following are the proceedings in reference to the issue of a Writ of *Prohibition*:—

Practical Directions.—First marshal the facts perfectly in order and then prepare an affidavit of such facts.

[1] Buggin *v.* Bennett, 4. Burr, 2037 (1767); Bodenham *v.* Ricketts, 6. N. & M., 170 (1836); Yates *v.* Palmer, 6 D & L., 283 (1848); Jones *v.* James, 19 L. J. 257 Q. B. (1850); Monflet *v.* Washburn, (1886) 54. L. J. Rep. 17.

[2] Denton *v.* Marshall, 7 L. T. Rep. 689 (1863).

The following is a specimen of one used on an application to the High Court for a Writ of Prohibition:—

1. On or about the 11th day of July 1891 I was served with a copy Writ of Summons issued by the Court of Record for the Hundred of Salford in the County of Lancaster, at the suit of John Creditor, a Plaintiff, and myself, the said James Debtor, as Defendant, an office copy of which said Writ of Summons is now produced and shown to me, at the time of swearing this my affidavit, and marked J.D. No. 1.

2. The said Plaintiff is a money lender carrying on business at Blackburn in the County of Lancaster, at which place the said Plaintiff, John Creditor, on the 1st day of April 1891, lent me the sum of £15, and for which I at the same time and place gave him, the said John Creditor, a promissory note for £18.

3. I am advised and verily believe that the said Court of Record is an inferior court having no jurisdiction, unless the whole of the cause of action arose within the Hundred of Salford in the County of Lancaster.

4. No part of the cause or causes of action alleged in the indorsement upon the said writ arose within the said Hundred, but arose at Blackburn aforesaid, a place wholly outside the said Hundred of Salford.

Under the Crown Office Rules 1886, Rule 305, a summons for prohibition is not issued without the leave of a Judge on an *ex parte* application.

The affidavit is filed in the Central Judicature offices in London, together with an application for leave to issue a summons for prohibition, such application being heard before a Judge in chambers, who, if satisfied with the merits of the affidavit, orders the issue of the summons.

The following is the form of the summons:—

In the High Court of Justice.

King's Bench Division.

The Hon. Mr. Justice ——, Judge in Chambers.

In the matter of an application for a Writ of Prohibition in an action in the Court of Record for the Hundred of Salford in the County of Lancaster.

Between *Plaintiff*

and

Defendant.

Upon hearing the Solicitor for the Defendant, and upon reading the affidavit of filed the day of 190 . Let all parties concerned attend the Judge in Chambers, at the Royal Courts of Justice, Strand, London, on the day of at 11 o'clock in the forenoon, upon the hearing of an application on the part of the Defendant, that a Writ of Prohibition issue directed to the Court of Record for the Hundred of Salford in the County of Lancaster, and the above-named to prohibit them from further proceeding in the matter of the above action.

And that the said be ordered to pay to the said his costs of and occasioned by this application.

Dated the day of 190

Copies of the summons and of the affidavit previously filed in support must be served upon the Registrar of the Salford Hundred Court, and upon the solicitor for the opposing party.

An affidavit of the due services of the summons and of the affidavit in support should be prepared and sworn for use upon the hearing, as in such case upon non-appearance of the opposing party an Order could be obtained forthwith.

Counsel should be briefed in the matter, it being heard before a Judge and not a Master, though this is not absolutely necessary.

An application for a prohibition may be made at chambers as well during sittings as in vacation, or it may be made in open Court, but if the latter course is adopted notice of motion must be given.[1]

The application to a Judge at chambers to restrain an inferior court from exceeding its jurisdiction is not a matter of practice within the meaning of Sec. 1, Sub-sec. 4, of the Supreme Court of Judicature Act 1894, and an appeal lies to the Divisional Court, and not in the first instance to the Court of Appeal.[2]

The proceedings taken in the Court itself upon a defence to the jurisdiction of the Court are to be found in the Chapter relating to Defences.

Before the Judicature Acts a plea to the jurisdiction would have been considered a plea in abatement and to which the plaintiff might have entered a *cassetur breve*, thereupon the action would have ended, each party bearing their own costs, but now under Order 21, Rule 20, of the Rules of the Supreme Court "no plea or defence shall be pleaded in abatement," the plea to the jurisdiction is now therefore an ordinary plea, and a *cassetur breve* cannot now be entered.

The plea to the jurisdiction cannot be pleaded with any other plea, as the one would negative jurisdiction and the other admit its existence. If defeated at the trial on his plea to the jurisdiction, the defendant should apply to the Court for leave to amend his plea and for a stay of execution. Such application might probably be granted, but only on terms as to his paying the costs and bringing the amount into Court.

Debt or Damages Sought to be Recovered must not Exceed Fifty Pounds.

Except by a consent to the jurisdiction, as stated hereafter, and also the right to an amount over £50 may be abandoned.

[1] King *v.* Charing Cross Bank, 24 Q. B. D., 27 (1889).

[2] Watson *v.* Petts, 1899, 1 Q. B., 54 (Lister *v.* Wood, 23 Q. B. D., 229 (1888), overruled).

The question of the annual rent, or annual value, must be carefully examined before commencing proceedings.

Jurisdiction by Consent.

The following is a form of consent to be signed by the solicitors to the parties. The consent must not be entitled in the cause, and must be filed at the Court before the issue of the Writ of Summons:—

Form of Consent to give Jurisdiction.

We [A.B., of, &c., and C.D., of, &c., or E.F. and G.H., Solicitors respectively for A.B., of, &c., and for C.D., of, &c.] do hereby consent that the Court of Record for the Hundred of Salford, in the County of Lancaster, shall have full power and jurisdiction to try an action to be brought by the above-named A.B. against the above-named C.D. for [here state shortly the cause of action], under the provisions of the Act of Parliament regulating the said Court; and we, the said [A.B. and C.D., or E.F. and G.H.] hereby consent to waive all objections arising from the cause of action not being within the ordinary jurisdiction of the said Court.

Dated this day of 190

(Signed) { *A.B. [or E.F., Solicitor for the said A.B.]*
C.D. [or G.H., Solicitor for the said C.D.]

The consent to jurisdiction in this case is very useful in matters of arbitration where sums exceeding fifty pounds are involved, the procedure being very cheap and expeditious.

Practical Directions.—File form of consent. Issue writ. Let the opposing party enter appearance thereto. Take out summons for reference, the opposing party consenting thereto, and an order is at once obtained, leaving the whole dispute to the decision of the Registrar; such order should follow the wording as set out in Appendix K, No. 24, in the "Annual Practice."

CHAPTER IV.

Instructions Before Writ.

The practitioner should deal with each matter in this Court as carefully as if it were an important action in the High Court of Justice, remembering that although perhaps trivial to himself it is highly important to the parties concerned, more especially if they are of very limited means. Immediately instructions are given by a client for the commencement of legal proceedings the solicitor should, as a matter of prudence, obtain from his client a written authority to act, particularly where there is the slightest suspicion that the client will afterwards deny the retainer. If a solicitor sues without authority, either party may apply to the Court to stay the proceedings, and that the solicitor shall pay the costs incurred by the applicant.

Practical Directions.—Attend at the Court with precipe written out thus:—

> *Summons to show cause why the proceedings in this action should not be stayed on the ground that Mr. John Law, the Solicitor named in the said action as Solicitor for the Plaintiff, has not received any retainer from the said Plaintiff to act for him in the said action, and why the said John Law should not pay the costs of and incident to this application, together with the Defendant's costs in the action, such costs to be taxed, and why execution should not issue for the same if not paid by the said John Law within forty-eight hours of the taxation thereof.*

The solicitor for the party making the application should at the same time prepare an affidavit to be sworn by the plaintiff denying the retainer, and any instructions to commence the said proceedings.

Three copies of the affidavit should be engrossed, one copy being sworn to by the plaintiff and filed, and the other copies

served with copies of the summons upon each of the solicitors representing the plaintiff and the defendant in the action. Upon the hearing of the summons the solicitor whose name appears as solicitor to the plaintiff in the action will probably apply for an adjournment of the summons to enable him to reply to the affidavit sworn to by the plaintiff.

Upon the adjourned hearing, the matter will be thoroughly discussed, and here it would be well to warn solicitors not to permit their opponents to place before the Registrar any facts or documents which are not referred to in the affidavits then before the Registrar in the particular matter. This refers to summonses and applications of all kinds, but of course this does not refer to the documents filed in the Court in the particular action, which may always be used, as also any question of law may be discussed, and cases bearing upon the point at issue read and produced before the Court.

The following are forms of retainer for employment of solicitor:—

I, A. B., of , hereby retain and employ John Law, of 1, Princess Street, Manchester, as my Solicitor, to commence and prosecute an action against C. D., of for the recovery of a debt of £ , which I claim to be owing to me from the said C. D.

Dated the day of 190 .

Witness

(Signature)

I, C. D., of , hereby retain and employ Brief, Sons & Company as my Solicitors to defend the action Jones against myself.

CHAPTER V.

Powers of the Court to make General Rules.

The following are the sections of the Salford Hundred Court of Record Act giving power to make General Rules of the Court :—

And as to General Rules of the Court.

Sec. 126. General rules for the regulations of the procedure and practice of the Court, and of the officers thereof and the practitioners therein, may be made from time to time, and for such purpose the powers contained in and conferred by the sections of "The Common Law Procedure Act 1852," numbered 223, 224, and 225 in the Queen's Printers copies of the said Act, and also the powers contained in and conferred by the sections of "The Common Law Procedure Act 1854," numbered 97 and 98 in the Queen's Printers copies of the said Act, and also the powers contained in and conferred by the sections of "The Common Law Procedure Act 1860," numbered 37 and 38 in the Queen's Printers copies of the said Act, shall and may from time to time be exercised by the Judge, but such rules shall be from time to time subject to the approval in writing thereof by one of the Judges of the superior courts, and from and after such approval from time to time as aforesaid the same shall be in full force and effect until the same shall be with the like approval altered or amended.

Sec. 127. In any case not expressly provided for herein, or by the rules of the Court for the time being in force, the general principles of practice in the superior courts shall be applicable and may be adopted and applied to actions and proceedings in the Court.

Sec. 128. In case any rule of the Court cannot be enforced by reason of the non-residence of any party within the Hundred or otherwise, it shall be lawful, upon a certificate of such rule by the Judge or by the Registrar, and

an affidavit that by reason of such non-residence or otherwise such rule cannot be enforced as aforesaid, to make such rule a rule of any one of the superior courts, if such superior court or any Judge thereof either in term or vacation shall think fit, whereupon such rule shall be enforceable and enforced in the same manner as a rule of such superior court may be enforced.

In accordance with the powers contained in the above sections of the Act, the following general rules and regulations of the Court were made:—

In pursuance of a Statute passed in a session of Parliament holden in the 31st and 32nd years of the reign of Her present Majesty, intituled "An Act to amalgamate the Court of Record for the Hundred of Salford in the County of Lancaster, and the Court of Record for the trial of civil actions within the City of Manchester, and to constitute the said amalgamated Court the Court of Record for the Hundred of Salford in the County of Lancaster, with extended powers, and to regulate the practice and procedure therein, and for other purposes";—

It is Ordered, that save and except as regards all actions, proceedings, matters, and things in or appertaining to the Court of Record for the Hundred of Salford in the County of Lancaster, and the Court of Record for the trial of civil actions within the City of Manchester, which shall have been commenced or depending before or at the time when the said Act shall come into operation, all existing rules of practice in either of the said Courts shall be, and the same are hereby revoked and annulled; and that the practice to be observed in the said amalgamated Court of Record for the Hundred of Salford, with respect to the matters hereinafter mentioned, shall henceforth be as follows, that is to say:—

(See the Chapter giving the Rules of the Court.)

Sec. 150. The practice, where no rules and orders apply to the contrary, shall be as nearly conformable as may

be to the rules and practice of the superior courts at Westminster, as the same now are or hereafter may be made or altered.

Operation of Rules.

These Rules shall take effect on the First day of January 1869, inclusive of that day.

Made and signed this 16th day of October 1868.

Henry W. West,
Joseph Kay,
Judges of the Court of Record for the Hundred of Salford in the County of Lancaster.

I approve of these Rules, and do confirm and allow the same. G. Hayes.

October 30th, 1868.

The above Rules and Regulations of the Court continued in operation until after the passing of the Judicature Act 1873, and until the 1st day of January 1879.

Under the powers conferred by Section 126 of the Salford Hundred Court of Record Act 1868 the provisions of the Judicature Acts were extended to the Court by certain Rules, dated the 28th day of October 1878, which Rules came into operation on and from the 2nd day of January 1879.

The following is a copy of these Rules:—

1. The provisions of "The Supreme Court of Judicature Acts 1873 and 1875," *and such Orders and Rules made in pursuance thereof as are now in force, as well as any Order or Rules which may hereafter be made and be in force for the time being*, by virtue of the said Acts shall (except as hereinafter is excepted or otherwise provided for) extend, and be applied to, and the forms therein mentioned shall be adopted and used in all Actions, Causes, and Matters, which at or after the time of the coming into operation of these Rules, shall be within the cognisance of the Court of Record for the Hundred of Salford in the County of Lancaster, but so far only as such Provisions, Orders, Rules, and Forms

respectively, are or may be applicable thereto, with such alterations as the nature of the action, the description of the Court, the character of the parties, or the circumstances of the case may render necessary, but any variance therefrom not being in matter of substance shall not affect their validity or regularity.

2. Provided always that all the rules and regulations of this Court in force at the date hereof, and so far as the same shall not be affected by, and do not conflict with, these rules, shall remain in force.

3. Every pleading may be either printed or written, or partly printed and partly written, provided always that in actions to recover a sum not exceeding twenty pounds, no more costs shall be allowed than the sum that would be allowed if such pleading had been written.

4. That with reference to actions commenced when these rules come into operation, where no declaration has been filed at the time of coming into operation of these rules, the action shall be continued according to these rules.

5. That in all other cases the action shall be continued up to the close of the pleadings, according to the practice of the said Court of Record for the Hundred of Salford, existing before and up to the time of these rules coming into operation, and afterwards according to these rules; subject, however, to an order at the instance of either party, to proceed at any stage according to the provisions of these rules.

6. The Judge, Registrar, Deputy-Registrar, Head Bailiff, and other officers of the said Court of Record for the Hundred of Salford, and their successors shall, *mutatis mutandis* (subject to rules of the said Court), perform the same or the like duties, and exercise the same or the like powers and authorities in respect of all actions, causes, and matters depending in the said Court of Record at the coming into operation of these rules, and also in respect of all actions, causes, and matters which may afterwards be commenced in the said Court, as at the coming into operation

of these rules may lawfully be performed and exercised by them respectively under any Act of Parliament for the time being in force with respect to the said Court, or under any other authority, but subject to such appeal only as existed at the time of the coming into operation of these rules, or which hereafter may exist.

7. These Rules shall come into operation on and from the Second day of January 1879.

Signed by me this 28th day of October 1878.

HENRY W. WEST,
Judge of the said Court.

I approve of these Rules this 28th day of October 1878.

HENRY MANISTY,
One of the Judges of the High Court of Justice.

All rules and orders at any time made under the provisions of the Supreme Court of Judicature Acts 1873 and 1875 apply therefore to the Salford Hundred Court,[1] and it should be remembered that all the rules and orders at any time made for the High Court are made under the provisions of the Judicature Acts 1873 and 1875.

The case of Cababé *v.* Ellis[2] was specially directed to the Liverpool Court of Passage, a court possessing officials entirely different to those of the Salford Hundred Court.

The old Rules of the Salford Hundred Court are not annulled, but apply except where they are altered by the Rules of the Supreme Court.

It should be remembered that by Section 91 of the Judicature Act 1873—

> The several rules of law enacted and declared by that Act shall be in force and receive effect in all courts whatsoever in England, so far as the matters to which such rules relate shall be respectively cognisable by such courts.

[1] Turner *v.* Heyland, 4 C. P. D., 432 (1879).
[2] 1 C. & E., 503 (1885).

CHAPTER VI.

The Issue of the Writ.

The practitioner having satisfied himself upon the points contained in the previous chapters, should exercise great discretion in issuing writs in the Court where the claim is under £5.

If the defendant has a defence to the action, and resides at a distance from the Court, and moreover is a poor man, it is a great hardship upon him to be compelled to defend the proceedings in the Court; and if the plaintiff wins the case, he may have had to take the matter before the Judge and Jury at the Assize Courts; and also he should remember that only County Court costs will be allowed, and as Counsel will have to be employed, there will be little or nothing left of the debt for the plaintiff. In all cases the object of the practitioner should be to conduct each matter with all possible dignity to himself and the profession, and ultimately to hand over to the plaintiff the amount of the claim without any deduction whatever.

Before issuing a writ, the practitioner should obtain full and detailed particulars of the plaintiff's claim, and have a short interview with the client to hear a summary of the evidence upon which the plaintiff can substantiate his claim. The time occupied in doing this will save much future expense and annoyance to the client, and, very possibly, eventually prevent the client going elsewhere with his business.

The practitioner wishing to practise in the Salford Hundred Court should have before him this book, "The Annual Practice," and "Chitty's Forms." These three books are indispensable, as the following pages do not attempt to contain a complete record of the law and practice of the Salford Hundred Court, but only as an aid to the practitioner, and to be used conjointly with the above-named books.

Practical Directions in issuing a Writ.—Fill up a form of precipe thus:—

IN THE COURT OF RECORD FOR THE HUNDRED OF SALFORD IN THE COUNTY OF LANCASTER.

Between John Creditor, of 1, Market Street, Manchester, in the County of Lancaster, Plaintiff; and
James Debtor, of 1, High Street, Manchester, in the County of Lancaster, Defendant.

Writ of Summons.

Dated this First day of October 1903.

Claim, £25. 16s. 0d.

JOHN LAW, *Solicitor for the Plaintiff,*
1, Princess Street, Manchester.

The cause of Action arose within the City District.

If the cause of action arises within the City of Manchester, the words "City District" are used. If it arises outside the City of Manchester, the words "Hundred District" are used.

By Section 38 of the Salford Hundred Court of Record Act—

> Sec. 38. Upon the precipe for every Writ of Summons issued under the provisions of this Act, and upon every proceeding filed or taken in the Court, the person filing such precipe, or filing or taking such proceeding, shall state thereon in writing where the cause of action arose.

And by Rule 147 of the Rules of the Salford Hundred Court—

> 147. Upon every precipe for any writ, and upon every appearance, pleading, and other documents required by the rules and practice of the Court to be filed with the Registrar, or other proceedings taken in the Court, the plaintiff or defendant in any action, as the case may be, or their respective attorneys, shall, when the cause of action arises within the City of Manchester, state thereon in writing the words,

"City District," and when the cause of action arises elsewhere within the Hundred of Salford, the words "Hundred District;" and shall also state thereon the amount of the plaintiff's claim, if it be for any debt on simple contract or indebitatus, or the nature of the action if of any other kind, and all such precipes, appearances, pleadings, and other documents or proceedings, shall be written upon paper of such size and form as the Registrar may for the convenience of filing prescribe, and all papers intended to be filed with the Registrar shall be tendered in a clean and fit state for the Court, otherwise the Registrar shall refuse to receive the same.

The following is a form of the Writ of Summons, three copies of which are required, one to file, one to serve, and one to be sealed by the Court, which latter is known as the original writ:—

IN THE COURT OF RECORD FOR THE HUNDRED OF SALFORD IN THE COUNTY OF LANCASTER.

BETWEEN

Plaintiff

and

Defendant

EDWARD THE SEVENTH, *by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, Defender of the Faith, Emperor of India*

To

LS

in the County of

WE COMMAND *you, that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Court of Record for the Hundred of Salford in the County of Lancaster, in an action at the suit of*

and take notice that in default of your so doing the Plaintiff may proceed therein and judgment may be given in your absence.

WITNESS, *The Right Honourable* OSBERT CECIL, *Earl of Sefton, High Steward of the said Court at Manchester in the said Hundred, the*
day of *in the year of our Lord One thousand nine hundred and*

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The Defendant may appear hereto by entering an appearance, either personally or by solicitor, at the Registrar's Office, Northern Assurance Buildings, Albert Square, Princess Street, in the City of Manchester.

By Section 39 of the Salford Hundred Court of Record Act—

39. Every Writ of Summons shall be tested in the name of the High Steward, or, in case of the vacancy of his office, in the name of the Judge.

And by Rule 20 of the Rules of the Salford Hundred Court—

20. Every writ shall bear date on the day on which the same is issued, and shall be tested in the name of the High Steward, or in case of the vacancy of his office, in the name of the Judge.

Where the plaintiff or the defendant is a female, it should be stated upon the face of the writ whether such person is a spinster, married woman, or widow.

(INDORSEMENT.)

STATEMENT OF CLAIM.

The Plaintiff's claim is for the price of goods sold by the Plaintiff to the Defendant at his request.

PARTICULARS.

1903, June 24th.—To balance of account rendered for the price of goods sold, full particulars whereof have been delivered and exceed three folios.

£25. 16s. 0d.

(Signed) JOHN LAW.

And the sum of £2. 3s. 0d., or such sum as may be allowed on taxation for costs; if the amount claimed is paid to the Plaintiff or his Solicitor or agent within four days from the service hereof, further proceedings will be stayed.

This writ was issued by JOHN LAW, *of 1, Princess Street, in the City of Manchester, in the County of Lancaster, Solicitor for the said Plaintiff, who carries on business at 1, Market Street, Manchester, and who resides at 15, Burlington Road, Sale, in the County of Chester.*

N.B.—Take Notice, that if the Defendant served with this writ does not appear according to the exigency thereof, the Plaintiff will be at liberty to sign final judgment for any sum not exceeding the sum above claimed, and the sum of £3. 1s. 4d., or such sum as may be allowed on taxation for costs, and issue execution thereupon.

This writ was served by me at
on the Defendant, on
the day of 190
Endorsed on the day of 190

Name
Address
Occupation

No particular instructions are necessary in regard to the matter on the face of the writ, but the whole of the indorsement is highly important. In the first place, in all cases where the claim comes within the terms of Order 3, Rule 6, of the Rules of the Supreme Court, the Statement of Claim should be indorsed upon the writ, so as, if necessary, to be

able to issue a summons for immediate judgment under Order 14, Rule 1.

The following are the three forms most used, and which it is advisable should always be ready printed and available for use immediately:—

STATEMENT OF CLAIM.

The Plaintiff's claim is for the price of goods sold and delivered by the Plaintiff to the Defendant at h request.

PARTICULARS.

[*Here insert the particulars of the claim.*]

(Signed) JOHN LAW.

STATEMENT OF CLAIM.

The Plaintiff's claim is for the price of goods sold by the Plaintiff to the Defendant at his request.

PARTICULARS.

190 .—To balance of account rendered for the price of goods sold, full particulars whereof have been delivered and exceed three folios.

£ : :

(Signed) JOHN LAW.

STATEMENT OF CLAIM.

The Plaintiff's claim is against the Defendants as makers of a joint and several promissory note for £ dated payable to the Plaintiff as follows :—

and in case of default in payment of any instalment the whole balance to become due and payable. And default was made.

PARTICULARS.

(Signed) JOHN LAW.

Many solicitors make a practice of purchasing blank forms of writs from the law stationers, whereas if they had the above forms always at hand, together with their name and other formal particulars ready printed, a large amount of time and expense would be saved.

Forms of Special Indorsements will be found in—

"*The Annual Practice;*"
"*Allen's Forms of Indorsements;*"
"*Bullen and Leake's Pleadings;*"
"*Cunningham and Mattinson's Pleadings.*"

The signature to the Special Indorsement should be written and not printed.

There is one Form of Indorsement which must not be omitted, and that is where the plaintiff is going to rely upon an account stated within the jurisdiction. The indorsement as in an ordinary writ may be used, below which must be placed the following :—

In the alternative the Plaintiff's claim is for money found to be due from the Defendant to the Plaintiff on an account stated in writing between them within the jurisdiction of this Court.

PARTICULARS.

Amount in Plaintiff's favour of account stated between the Plaintiff and the Defendant at 1, Market Street, Manchester, within the jurisdiction of the Court, on the 1st day of August 1903. *£25. 16s. 0d.*

Remember that *the place* will be where the defendant's letter was received, and *the date* that on which the same was received—not the date which the letter bears, or the date when it was posted, but the date when the letter was received within the jurisdiction.

The above indorsement may be used alone as the sole cause of action.

Under Order 3, Rule 6, of the Rules of the Supreme Court a claim for interest upon a debt or liquidated demand in

money may be properly the subject of special indorsement, where such claim for interest arises either by express or implied contract or is given by particular statutes the agreement to pay interest must be alleged in the Statement of Claim.

Where the plaintiff or defendant sues or is sued in a representative capacity a memorandum to that effect must be put upon the indorsement on the writ, for which see Appendix A, Part 3, Section 7 in the "Annual Practice."

Unliquidated Damages.—Where the claim is an unliquidated demand, the Statement of Claim must not be indorsed upon the writ, but the writ must be indorsed with a general idea of the claim, as shown in Section IV. of Appendix A of the "Annual Practice."

The next portion of the indorsement, in the case of a claim for a liquidated demand, is as follows:—

> *And the sum of £ or such sum as may be allowed on taxation for costs; if the amount claimed is paid to the Plaintiff or h Solicitor or Agent within four days from the service hereof, further proceedings will be stayed.*

The costs to be indorsed here are as follows:—

Claim not exceeding	Where the defendant resides within two miles of the Manchester Town Hall.			Where two defendants.			Where the defendant resides elsewhere.			Where two defendants reside elsewhere.		
£	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
3	0	8	0	0	8	0	0	8	0	0	8	0
4	0	9	0	0	9	0	0	9	0	0	9	0
5	0	10	0	0	10	0	0	10	0	0	10	0
6	1	1	0	1	1	0	1	1	0	1	1	0
7	1	2	0	1	2	0	1	2	0	1	2	0
8	1	3	0	1	3	0	1	3	0	1	3	0
9	1	4	0	1	4	0	1	4	0	1	4	0
10	1	5	0	1	5	0	1	5	0	1	5	0
20	1	6	2	1	11	2	1	12	2	1	17	2
50	2	3	0	2	9	0	2	11	0	2	17	2

In actions for sums not exceeding £5, where a Default Summons could be issued under Section 86 of the County Courts Act 1888, the sum of 4*s*. may be indorsed in addition.

Sec. 86, Sub-sec. 6, reads thus:—Provided always, that no other summons than a summons in the ordinary form shall, without leave of the Judge or Registrar, be issued where the amount claimed shall not exceeed £5, unless the action is for the price, value, or hire of goods which, or some part of which, were sold and delivered or let on hire to the defendant to be used or dealt with in the way of his trade, profession, or calling, and such leave shall be given in the manner prescribed.

In all cases, therefore, where it is desired to indorse the extra costs in claims under £5 a statement must be made upon the writ of the defendant's occupation, to show that the defendant is not a person engaged in manual labour, or that the claim comes within sub-sec. 6 of Sec. 86 of the County Courts Act.

In actions where the claim exceeds £5 no such leave is necessary, and a Default Summons can issue in all cases for a debt or liquidated money demand, therefore the lower scale of costs is not set out above.

Salford Hundred Court of Record.

Scale of solicitor's costs and fees as between party and party in all actions in which the County Court has jurisdiction, to be indorsed on writs for sums not exceeding £10:—

Sums above £2 and not above £3.	Above £3 and not above £4.	Above £4 and not above £5.	Above £5 and not above £6.
8*s*.	9*s*.	10*s*.	15*s*.
Above £6 and not above £7.	Above £7 and not above £8.	Above £8 and not above £9.	Above £9 and not above £10.
16*s*.	17*s*.	18*s*.	19*s*.

In actions for sums not exceeding £5, where a Default Summons could be issued under Section 86 of the County Court Act 1888 the sum of 4*s.* may be indorsed in addition; and in actions from £5 to £10, the sum of 6*s.* additional.

All other costs and fees in the above actions to be allowed on the County Court scale only.

The foregoing scale of solicitor's costs has been settled by and under the provisions of the Statute 31st and 32nd Victoria, Chapter 130, this 6th day of March 1895.

(Signed)

H. SHEE,

Judge of the Court of Record for the Hundred of Salford, in the County of Lancaster.

I confirm and allow the foregoing scale of solicitor's costs and fees for the Court of Record for the Hundred of Salford, in the County of Lancaster, to come into operation on the 1st day of June 1895.

(Signed)

WILLIAM RANN KENNEDY,

One of the Judges of the High Court of Justice.

If any solicitor attempts to get more than these amounts, the proper amount for debt and costs should be tendered to him, and if he refuse to accept the same in satisfaction, a summons should be issued—

To show cause why the Plaintiff should not accept £ for debt, as claimed by him, and £ for costs, the same having been already tendered to him or to his solicitor, and why the Plaintiff should not pay the costs of and incidental to this application, such costs to be taxed, and if the said costs be not paid within forty-eight hours of the taxation of the same, why the Defendant should not be at liberty to issue execution therefor, and why in the meantime all proceedings herein should not be stayed.

Of course, the tender of the debt and costs, and the issue of the summons, should be completed within four days of the service of the writ, inclusive of the day of service, although in cases where the claim does not exceed £10, the costs, as shown above, are sufficient up to the time of signing judgment.

The next portion of the indorsement is as follows:—

> This writ was issued by JOHN LAW, of 1, Princess Street, in the City of Manchester, in the County of Lancaster, solicitor for the said Plaintiff who reside at

The address must be that of the plaintiff's "residence," his place of business is not sufficient,[1] except in the case of a firm.[2]

Where the plaintiff carries on business within the jurisdiction, and resides outside the jurisdiction, both addresses should be stated.

SECURITY FOR COSTS.

Where the plaintiff carries on business and resides outside the jurisdiction, the defendant may take out a summons for security for costs under Rules 44 and 45 of the General Rules of the Salford Hundred Court, which read as follows:—

> 44. An application to compel the plaintiff to give security for costs must in ordinary cases be made before issue joined.
>
> 45. If the plaintiff, or in any action where there are more plaintiffs than one, all the plaintiffs reside without the jurisdiction, and have no place of business within the jurisdiction of the Court, the defendant may, upon affidavit, take out a summons for the plaintiff, to shew cause before the Registrar why all proceedings should not be stayed until security be given for costs, which summons shall be supported by affidavit; and if an order be made thereon, all

[1] Stoy *v.* Rees, 24 Q. B. D., 748 (1890).
[2] Stoy *v.* Rees, 59 L. J., Q. B., 310 (1890).

proceedings shall be stayed until an undertaking to pay such costs shall be given by one sufficient housekeeper, residing or having a place of business within the jurisdiction of the Court, to be approved of by the Registrar.

No Solicitor nor his Clerk may become Surety.

46. If the plaintiff shall discontinue or become nonsuit, or a verdict or judgment shall pass against him, the said undertaking may be made a rule of the Court; and for non-performance thereof, the defendant may have an attachment against the person entering into such undertaking, upon affidavit of the costs having been demanded of such person, and not paid.

Practical Directions.—Make a written demand of security for costs:—

I hereby, on behalf of the Defendant in this action, require of the Plaintiff to give the Defendant security for the payment of the Defendant's costs; otherwise I shall apply to the Court for an order to compel him to do so.

Dated the day of 1903.

Brief, Sons & Co.,
Defendant's Solicitors,
1 Cross Street, Manchester.

To Mr. John Law,
Plaintiff's Solicitor.

If security be not given in due course, make an affidavit showing that the plaintiff resides out of and has no place of business within the jurisdiction of the Court, and that the defendant has entered an appearance, and also show in what stage the proceedings in the action are, and the fact of a demand for security (if made, which is optional) refused.

The application cannot be made until after appearance to the writ.

The following is a specimen of such affidavit:—

We, James Debtor, of 3, Princess Street, in the City of Manchester, Cabinet Maker, the above-named Defendant; and

Andrew Brief, of 1, Cross Street, Manchester aforesaid, his solicitor in this action, severally make oath and say as follows :—

And first I, the said James Debtor, for myself say :—

1. *The residence of the above-named Plaintiff is at and he has no place of business within the jurisdiction of this Court.*

And I, the said Andrew Brief, for myself say :—

2. *An appearance was on the day of entered in this action for the said Defendant.*

3. *The Plaintiff has not yet delivered his statement of claim herein [or as the case may be].*

4. *I did on the day of on behalf of the said Defendant demand from the Plaintiff's solicitor security for costs in this action, but no security has been given for such costs.*

File the affidavit, whereupon a summons may be issued:—

To show cause why all proceedings in this cause should not be stayed until security be given for costs, the Plaintiff having no residence or place of business within the jurisdiction of the Court, and why, in case the security should not be given within fourteen days of the order, the action should not be dismissed with costs for want of prosecution, and why the costs of and incidental to this application should not be paid by the Plaintiff to the Defendant or his solicitor, such costs to be taxed, and why in default of payment thereof within forty-eight hours of taxation the Defendant should not be at liberty to issue execution for the same.

If an order is made by the Registrar, and if the defendant is satisfied with the proposed surety, an undertaking is entered into and filed at the Court. If necessary an affidavit of sufficiency of means may be required from the surety.

The following is a form of the order:—

Upon hearing the solicitors on both sides, and reading the joint affidavit of , it is ordered that the Plaintiff give security for the Defendant's costs in this action to the satisfaction of the Registrar, and that in the meantime all further proceedings be stayed.

And that the costs of such application be the Defendant's.

Dated the day of 1903.

The following is a form of the undertaking:—

I, of in the Hundred of Salford, do hereby consent and undertake to pay into this Court, on demand by the solicitor for the Defendant, for the use of the Defendant, such costs as the Registrar, on taxation, may allow in this behalf, in case the said Plaintiff shall be condemned, or be non-suited in, or shall discontinue his action.

And I hereby agree that this consent and undertaking may be made a Rule of this Court, and that for the non-performance thereof an attachment of contempt may issue against me.

Upon the hearing of the summons the Registrar may, however, at the request of the plaintiff, order a sum of money to be paid into Court in lieu of an undertaking, such amount to be fixed by the Registrar.

Where the "residence" of the plaintiff is not endorsed on the writ, the defendant can issue a summons against the plaintiff in the following form:—

To show cause why the Writ of Summons issued herein should not be set aside on the ground that the address of the Plaintiff is not endorsed on the Writ of Summons, as required by Order 4, Rule 1, of the Rules of the Supreme Court, and why the costs of, etc.

Under this summons, an order is generally allowed to amend the writ upon payment of the defendant's costs.

The next portion of the indorsement upon the writ is—

N.B.—Take notice, that if the Defendants served with this writ do not appear according to the exigency thereof, the Plaintiff will be at liberty to sign final judgment for any sum not exceeding the sum above claimed and the sum of £ : : or such other sum as may be allowed on taxation for costs, and issue execution thereupon.

The costs to be indorsed here are as follows:—

Claim not exceeding	Where Defendant resides within two miles of the Manchester Town Hall.			Where Defendant resides elsewhere.		
£	£	*s.*	*d.*	£	*s.*	*d.*
3	1	1	0	1	1	0
4	1	4	0	1	4	0
5	1	7	0	1	7	0
6	2	3	0	2	3	0
7	2	6	0	2	6	0
8	2	9	0	2	9	0
9	2	12	0	2	12	0
10	2	15	0	2	15	0
20	2	0	2	2	6	2
50	3	1	4	3	9	4

In all cases where the claim does not exceed £5 a sum of 4*s.* additional upon the judgment costs will be allowed where a Default Summons could have issued in the County Court.

ORDER OF COURT AS TO JUDGMENT COSTS.

Monday, the Eighteenth day of November, in the Year of our Lord One thousand eight hundred and seventy-eight.

In accordance with the directions in this behalf contained in the forty-sixth section of "The Salford Hundred Court of Record Act 1868," I do hereby fix the following amounts as the sums of costs for which judgment may be signed and execution had, in case of non-appearance by the defendant, where the Writ of Summons is specially endorsed under Order 3, Rule 6, of "The Supreme Court of Judicature Act 1875," that is to say:—

In Actions above £20.

	£	s.	d.
In cases where the writ is served within the City of Manchester or Borough of Salford.....	3	1	4
In agency cases, or service out of the City of Manchester or Borough of Salford, or by a Correspondent, including mileage, in addition not exceeding.....	3	9	4

In Actions above £5 and not exceeding £20.

[But see Order dated 6th May 1895, for claims not exceeding £10.]

In cases where the writ is served within the City of Manchester or Borough of Salford.....	2	0	2
In agency cases, or service out of the City of Manchester or Borough of Salford, or by a Correspondent, including mileage, in addition not exceeding	2	6	2

In Actions above £2 and not exceeding £5.

[But see Order dated 6th May 1895.]

In cases where the writ is served within the City of Manchester or Borough of Salford.....	1	1	4
In agency cases, or service out of the City of Manchester or Borough of Salford, or by a Correspondent, including mileage, in addition not exceeding.....	1	5	4

(Signed) JOS. HERON,
Registrar.

We approve of the costs fixed by the Registrar as hereinbefore mentioned and set forth.

(Signed) HENRY W. WEST,
Judge of the Court of Record for the Hundred of Salford, in the County of Lancaster.

(Signed) JOHN HIBBERD BREWER,
One of the Masters of the High Court of Justice.

SALFORD HUNDRED COURT OF RECORD.

The 6th day of May, A.D. 1895.

In accordance with the directions in this behalf contained in the 46th section of the Salford Hundred Court of Record Act 1868, I do hereby fix the following amounts as the sums for costs for which judgment may be signed in all actions in which the County Court has jurisdiction where the amount recovered does not exceed £10:—

Sums above £2 and not above £3.	Above £3 and not above £4.	Above £4 and not above £5.
£1. 1*s.*	£1. 4*s.*	£1. 7*s.*

In actions where a Default Summons could be issued under Section 86 of the County Court Act 1888, a sum of 4*s.* additional in each case will be allowed:—

Sums above £5 and not above £6.	Above £6 and not above £7.	Above £7 and not above £8.	Above £8 and not above £9.	Above £9 and not above £10.
£1. 17*s.*	£2.	£2. 3*s.*	£2. 6*s.*	£2. 9*s.*

In actions where a Default Summons could be issued under Section 86 of the County Court Act 1888, a sum of 6*s.* additional in each case will be allowed.

All other costs and fees in the above actions to be allowed on the County Court scale only.

(Signed) WM. HENRY TALBOT,
Registrar.

We approve of the costs fixed by the Registrar as hereinbefore mentioned and set forth.

(Signed) H. SHEE,
Judge of the Court of Record for the Hundred of Salford, in the County of Lancaster.

(Signed) JAMES R. MELLOR,
One of the Masters in the High Court of Justice.

NOTE.—No additional costs will be allowed in actions not exceeding £10 when there is more than one defendant.

Where there are two or more defendants, or where the defendant has been served with the writ a very considerable distance from any solicitor's office, and the claim exceeds £10, the costs must be taxed by the Registrar.

It should be remembered that by Rule 148 of the Rules of the Salford Hundred Court—

> 148. In all proceedings in the Court, subsequent to Writ of Summons, it shall suffice to describe the title of the Court as follows, that is to say, "In the Salford Hundred Court."

CHAPTER VII.

Concurrent Writ.

A DEFENDANT can always demand to see the original writ when service of copy writ is being attempted to be made upon him, so where there is a defendant whom you cannot easily find, the practitioner should issue the writ, and also one or more concurrent writs, and send them to the places where it may be thought the defendant can be found.

Order 6 of the Rules of the Supreme Court deals with concurrent writs.

Practical Directions.—Mark the writ "Concurrent Writ."

This concurrent writ was issued on the day of 190 .

Take a precipe to the Court filled up thus:—

Seal a concurrent Writ of Summons in this action.

Original writ dated the day of 190

The Court will then, upon payment of a fee, seal the concurrent writ.

CHAPTER VIII.

Renewal of the Writ.

Where it is desired to obtain a renewal of the Writ of Summons, in consequence of the same not having been served within twelve months of the issue thereof, an affidavit must be filed at the Court under the terms of Order 8, Rule 1, of the Rules of the Supreme Court.

The affidavit should show that reasonable efforts have been made to serve the writ, or that some other good reason exists why it should be renewed.

This affidavit must be presented to the Registrar, together with the original Writ of Summons, and also a precipe bearing the words:—

> Application for leave to renew Writ of Summons under Order 8, Rule 1, of the Rules of the Supreme Court.

Whereupon the Registrar, if satisfied with the merits of the affidavit, will endorse upon the precipe his consent to an order.

For form of order, see Appendix K, No. 22, in the "Annual Practice."

For precipe for Renewed Writ, see Appendix G, No. 20, in the "Annual Practice."

The order, when made, must be filed at the Court, whereupon the Court will impress the original writ with the seal of the Court, bearing the day, month, and year of the renewal.

The following words must be written upon the face of the writ:—

Renewed by Order of Court, dated .

A copy of the order should be served upon the defendant with the writ.

The application must be made to the Court before the expiration of twelve calendar months from the date of the issue of the writ.

CHAPTER IX.

The Service of the Writ.

The Writ of Summons having been duly issued, the copy—which should previously be very carefully examined with the original writ, and in the place of the seal should have written or printed upon it as follows:—

—should be served upon the defendant personally as speedily as possible, and a person on serving a writ must, on request, show the original writ to the defendant, otherwise all the proceedings will be set aside.[1]

By Section 40 of the Salford Hundred Court Act—

> Sec. 40. Any writ, order, summons, or process issuing out of or made or taken in the Court may be served in any part of *England* or *Wales*.

Where a solicitor undertakes to appear on behalf of the defendant, the copy writ should be served upon the defendant's solicitor, who must endorse upon the original writ an undertaking so to appear. Rule 12 of the General Rules of the Salford Hundred Court, which deals with such undertakings, reads thus:—

> 12. Every attorney who shall give his undertaking to enter an appearance for a defendant or defendants to any Writ of Summons issued out of this Court, shall enter such appearance accordingly; and every attorney who in his character, and is incident to his office of attorney, shall give any undertaking in a cause or other proceeding in this Court, shall perform such undertaking; and every attorney who

[1] Phillipson *v.* Emanuel, 56 L. T., 858 (1887).

shall not enter such appearance according to his undertaking, or shall not perform his undertaking given in any cause or other proceeding in this Court, shall be deemed guilty of a contempt of this Court, and liable to an attachment; or this Court shall in its discretion suspend such attorney from practising as an attorney of this Court for any period of time it shall think fit, or order the name of any such attorney to be struck off the roll of attorneys of this Court, and such attorney shall be prohibited from afterwards practising in this Court.

A form of notice of motion for attachment against a solicitor for not appearing to a writ in pursuance of his undertaking will be found in the chapter relating to Attachments.

It is now the practice to summon the solicitor before the Registrar before proceeding to attachment.

The following is a form of undertaking by solicitor to appear to writ:—

I accept service hereof, and I undertake to appear for the within-named defendant in due course.

This undertaking should be indorsed on the original writ.

In all cases of service the date of service and the place of service must, within three days of the service, be indorsed upon the writ by the person serving the same, thus:—

This Writ was served by me at
on *the Defendant, on*
the *day of* *190*

Indorsed on the *day of* *190*

Name
Address
Occupation

After four days from the service of the writ, which may be served anywhere in England or Wales, an affidavit of the service should be made.

The following is the usual form :—

I, make oath and say as follows :—

1. That I did on the day of 190 , at personally serve the above-named Defendant with a true copy of a Writ of Summons which appeared to me to have been regularly issued out of and under the Seal of this Court against the above-named Defendant at the suit of the above-named Plaintiff bearing date the day of 190 , to which said writ and copy a memorandum was subscribed and due indorsements made thereon pursuant to the Statutes and Rules in that behalf made and provided.

2. That I further say that I did afterwards on the day of 190 , indorse on the said writ the day of the week, month, and year of such service, according to the Statute and Rules in that case made and provided.

Sworn, etc.

Partners.

Where persons are sued as partners, and the writ is served at the principal place of the business of the partnership upon any person having, at the time of service, the control or management of the partnership business there, the following notice should be served with the writ :—

Take notice, that you are served with the Writ of Summons in this action as a person having at the time of such service the control or management of the Defendant's partnership business.

Dated this day of 190

For form of Affidavit of Service on a Partner in a Firm, see Appendix B, Part I., Form No. 2, in the "Annual Practice."

For form of Affidavit of Service on Manager of Partnership firm, see Appendix B, Part I., Form No. 3.

For form of Affidavit of Service on Limited Company, see Appendix B, Part I., Form No. 4.

The above forms must, of course, be adapted to the Salford Hundred Court, following the form of the ordinary affidavit of service in the Salford Hundred Court.

On service of writ on a partner of a firm he may also be served with a notice that he is served as a partner. The following is a form of such notice :—

> *Take notice that you are served with the Writ of Summons in this action as a partner in the defendant firm of partnership.*

CHAPTER X.

Substituted Service of the Writ.

Where the writ cannot be served personally, an order for substituted service may be applied for.

Practical Directions.—Follow the course of conduct as nearly as possible as described in the following affidavit:—

I, of in the County of make oath and say as follows:—

1. That having been directed by the above-named Plaintiff to serve the above-named Defendant personally with a copy of a Writ of Summons which appeared to me to have been regularly issued out of this Honourable Court on the day of 190 against the said Defendant, at the suit of the above-named Plaintiff, to and on which said writ a memorandum was subscribed, and indorsements were made pursuant to the Statutes and Rules of Court in such case made.

2. I did on the day of 190 attend for the purpose of serving such copy writ at being the residence of the said Defendant, and on enquiring after the said Defendant I was informed by a person in the said residence, who represented self to be and whom I believe to have been the of the said Defendant, that the said Defendant was not at home, and and I then stated to the said person the nature of my business, and told h that I called to serve the said Defendant with a copy of the said writ, and that I would call again for that purpose at the said place on the day of 190 at of the clock in the noon.

3. That I did accordingly attend at the said place for the purpose aforesaid at of the clock in the noon on the said day of and then saw person, who represented self to be and whom I believe to have been the of the said

Defendant, who informed me that

and thereupon I again stated to the said person the nature of my business and told h that I would call again for the purpose of seeing the said Defendant, and serving h with a copy of the said writ at the said place on the day of 190 at of the clock in the noon.

4. That I did accordingly attend at the said place for the purpose aforesaid at of the clock in the noon of the said day of and then saw person, who represented self to be and whom I believe to have been the of the said Defendant who informed me that

whereupon I then and there delivered to and left with the said person a true copy of the said writ with the said memorandum subscribed thereto and indorsements thereon, and requested h to give the said copy writ to the said Defendant immediately he could.

5. That I did not on any of the said occasions see the said Defendant and that I have done all I possibly could to serve the said Defendant with a true copy of the said writ but that I have not been able to do so.

6. That for the reasons aforesaid I verily believe that the said Defendant wilfully has evaded and evades service of the writ, and keeps out of the way to avoid personal service thereof, and that prompt personal service of the said writ cannot be effected.

Sworn, etc.

Immediately the calls have been made, prepare and file the affidavit. Call the next day at the Court, and, if the affidavit is sufficient, an order for substituted service will be made.

Where the residence of the defendant is not known a paragraph to that effect should be stated in the affidavit, and

also that endeavours have been made to obtain such information but without avail.

For form of order see Appendix K, No. 21, in the "Annual Practice."

Serve a copy of the writ and of the order, as directed by the order (usually by leaving the same at the defendant's residence, or by posting the same by prepaid letter post).

The following is a form of the Affidavit of Service:—

I, of in the County of make oath and say as follows:—

1. That I did on the day of 190 serve a true copy of the order hereunto annexed marked "A," together with a true copy of the original Writ of Summons, memorandum and indorsements thereon, a true copy whereof is hereunto annexed marked "B," by leaving the same at the of the above-named Defendant situate at Number Street, in the County of Lancaster, that being the address mentioned in the said order, with there.

2. And I further say that I did afterwards on the day of 190 indorse on the said writ the day of the week and month and year of such service.

The time of the service of the writ dates from the day of the service of the order, or the day after the posting of the same.

For form of Affidavit of Substituted Service by Post, see Appendix B, Part I., No. 8, in the "Annual Practice."

For form of Affidavit of Service by Advertisement, see Appendix B, Part I., No. 9.

Order 10 of the Rules of the Supreme Court deals with substituted service.

CHAPTER XI.

Amendment of the Writ.

It is frequently necessary to amend the writ before service, and an order to amend is necessary even in cases where the writ has not been served (*per* Lush, J., 60, "L. T. Journ.," page 32), but in such cases the Registrar will allow the amendment to be made *ex parte*, and no order for that purpose need be drawn up under Order 52, Rule 14, of the Rules of the Supreme Court.

Practical Directions.—Make out an amended copy of the writ, showing the amendments in red ink. Fill in precipe as follows:—

> *Application for amendment of writ, and I hereby certify that the Writ of Summons has not been served.*

Attend before the Registrar, when, if satisfied, he will initial the precipe and allow the amended writ to be sealed.

The amended copy only need be served.

After service, a writ can only be amended by order of the Court. Order 28, Rules 1 and 2, of the Rules of the Supreme Court deal with amendments of the writ.

The following is a form of such summons:—

> . . . . *for an order that the Plaintiff be at liberty to amend the Writ of Summons by, etc.*

For form of order see Appendix K, No. 10, in the "Annual Practice."

The following section of the Salford Hundred Court of Record Act deals with amendments:—

> Sec. 96. It shall be lawful for the Judge or the Registrar at all times to amend all defects and errors in any proceeding, whether there is anything in writing to amend by or not, and whether the defect or error be that of the

party applying to amend or not, and all such amendments may be made with or without costs, or upon such terms as to the Judge or Registrar, as the case may be, may seem fit, and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made.

The following Rule of the Salford Hundred Court deals with amendments :—

23. Whenever the plaintiff shall amend the writ after notice by the defendant, or by a plea in abatement of a nonjoinder, by virtue of the "Common Law Procedure Act 1852," Section 36, he shall file a consent in writing of the party or parties whose name or names are to be added, together with an affidavit of the handwriting, and give notice thereof to the defendant, unless the filing of such consent be dispensed with by order of the Court or Registrar.

CHAPTER XII.

Setting aside Indorsement of Claim Wrongly Indorsed under Order 3, Rule 6.

Where a writ is specially indorsed, but the claim does not come within the terms of Order 3, Rule 6 (such as for instance a claim for damages), a summons to strike out the same should be issued at once after entry of appearance.

The following is a form of such summons:—

To show cause why the indorsement upon the Writ of Summons herein, purporting to be a Statement of Claim, and thereby making the writ a specially indorsed writ, should not be struck out, upon the grounds that the cause or causes of action therein disclosed do not come within the terms of Order 3, Rule 6, of the Rules of the Supreme Court, and, therefore, the writ should not be indorsed as a specially indorsed writ, and upon the grounds that the same does not state specifically the relief which the Plaintiff claims; and also that the same is irregular and embarrassing, and generally contrary to the Rules of the Supreme Court and of this Court.

And why the Plaintiff should not pay to the Defendant, or his solicitor, the costs of and incidental to this application, such costs to be taxed.

And why in the meantime all further proceedings in the action should not be stayed.

CHAPTER XIII.

Payment of Debt without Costs.

When a writ for a liquidated demand has been issued the defendant is liable for the costs of it, although he tender the amount claimed before service.

If the defendant pays the debt after issue of the writ but before service thereof the plaintiff should serve him with the writ and then issue a summons for the costs. Such summons may either be served personally upon the defendant or left with an adult at his private residence,

The following is the form of the summons:—

> *To show cause why the Defendant should not be ordered to pay the costs of the Writ of Summons herein, together with the costs of this application, upon the ground that since the issue of the said writ but before service thereof the Defendant paid the amount of the claim but without costs.*

The ordinary form of the order is as follows:—

> *I do order that the Defendant do within seven days after service of this order pay to the Plaintiff or his solicitor £ for costs, the debt having been paid since action brought.*

The Registrar generally fixes the amount of the costs.

The original order must be indorsed with particulars of due service, whereupon same is filed and execution issued as on order for costs.

Where the defendant pays the debt after service and before appearance but refuses to pay any costs, the plaintiff

may enter judgment for the costs only, the judgment would read thus:—

> *The Defendant not having appeared to the Writ of Summons herein, it is this day adjudged that the Plaintiff recover against the said Defendant nothing of the amount sued for (the Defendant having since the service of the Writ of Summons paid £ the amount sued for) but £ for costs.*

The costs would be the judgment costs marked on the Writ of Summons, or as allowed on taxation if substituted service, the claim exceeding £10.

CHAPTER XIV.

Proceedings to Stay Where Debt Confessed Under Section 42.

In many cases a defendant served with a writ may admit the amount due, and may yet be unable to pay the same immediately. To meet these cases the Court has a very equitable and easy method whereby the defendant may have time given him to satisfy the plaintiff's claim.

The sections of the Salford Hundred Court Act relative to the matter read as follows:—

> Sec. 42. The Registrar, upon the application of a defendant served with a Writ of Summons in any action for a liquidated demand, may at any time before declaration filed stay the proceedings in such action by an order of Court, by which the defendant shall confess the claim endorsed on the writ (hereinafter called "the debt"), and by which he shall undertake and agree to pay the debt and costs endorsed on the writ, and the costs of the order, at such period or periods, not exceeding three months in the whole (unless the plaintiff shall consent to a longer time), and by instalments or otherwise, as to the Registrar may seem proper under the particular circumstances of the case, and which period or periods, instalment or instalments, shall be specified in the said order, together with such terms as the Registrar may think proper to impose on the defendant on granting such application; and in case of default the plaintiff may sign final judgment on such confession as aforesaid for the debt so endorsed on the said writ, with costs of suit to be taxed, and may forthwith issue execution for the whole of such debt remaining due at the time of issuing the same, and costs as last aforesaid.
>
> Sec. 43. A defendant may, on such application as aforesaid, have leave to confess in manner aforesaid any part of the debt, if such part on the hearing of the application

shall appear to be all that is *bona fide* due and owing to the plaintiff, and the Registrar may make such order of Court and give such time as aforesaid, and may in such case award costs or not in his discretion; or if on such application as last aforesaid the parties shall not agree as to the amount of the debt, but the plaintiff shall claim a further sum than the defendant is willing to confess, then the defendant may in manner aforesaid confess the sum which he is so willing to confess as aforesaid, and the Registrar may make such order and give such time as aforesaid with respect to the sum which the defendant shall so confess; and the same proceedings, including the signing of judgment and issuing of execution, shall take place on such confession with respect to the sum so confessed, as in the case where the whole debt is confessed as aforesaid; and the plaintiff shall be allowed to declare for any further amount, but shall in his particulars of demand give credit for, and shall not on the trial of the cause be allowed to proceed for, any part of the sum so confessed as aforesaid.

Sec. 44. The application and proceedings on confession hereinbefore provided may be made and take place without any appearance being entered.

Practical Directions.—Fill up a form of precipe:—

Summons to stay under Section 42 of the Salford Hundred Court of Record Act 1868.

Attend the Court with the precipe, and the Clerk will hand you a stamped form of summons and copy.

Special leave should be obtained from the Registrar for the hearing of the summons on the following day. Copy summons must be served upon the plaintiff's solicitor, and, like all other summonses, must be served before six o'clock in the evening, except on Saturdays, when it must be served before two o'clock.

Upon the hearing of the summons the defendant should attend personally to be examined as to his means.

If the order is made, the defendant's solicitor should particularly ask that the costs should be fixed at the same time by the Registrar, to save the expenses of taxation.

The Registrar must by the section of the Act make an order which does not give the plaintiff liberty to sign final judgment until the defendant makes default in performing the conditions thereof, then judgment may be signed when that event happens.

It should be remembered that the order may be made without the necessity of an appearance to the writ, and must be made before the plaintiff gives notice to plead after appearance entered.

Under Order 42, Rule 17, of the Rules of the Supreme Court :—

> *The Court or a Judge may, at or after the time of giving judgment, or making an order, stay execution until such time as they or he shall think fit.*

Should the defendant be unable to pay the amount of debt and costs within the three months as provided by Section 42, and should the *bona fides* of the application be such as to warrant it, the Registrar may stay execution upon application being made under this rule. No special form of summons is necessary, as the application can be made upon the hearing of the summons under Section 42. But in such case the plaintiff should apply for an adjournment of the hearing of the summons for the purpose of enabling him to bring evidence *viva voce* on oath as to the defendant's means, or as to the circumstances of the claim or under which the debt was incurred.

Section 79 of the Salford Hundred Court Act 1868 also gives power to the Registrar to order proceedings to be stayed in certain cases.

CHAPTER XV.

Judgment in Default of Appearance.

Final judgment in default of appearance can only be obtained when there is a claim for a liquidated demand on the writ, and when it has been personally served upon the defendant, or where an order for substituted service of the writ has been made, and when the defendant has not appeared to the writ. The affidavit of the service of the writ must be made and filed at or before the time of signing the judgment.

By Order 13, Rule 3, of the Rules of the Supreme Court —

> Where the Writ of Summons is endorsed for a liquidated demand, whether specially or otherwise, and the defendant fails, or all the defendants if more than one fail to appear thereto, the plaintiff may enter final judgment for any sum not exceeding the sum indorsed on the writ, together with interest at the rate specified (if any), or (if no rate be specified) at the rate of five per cent per annum to the date of the judgment, and costs. Where judgment is signed in default on a claim for a contract debt and interest, the rate of interest not being specified, the rate up to judgment is five per cent and after judgment four per cent.

For interest tables at these rates, see Part 2 in the "Annual Practice."

If a larger sum be claimed for costs than any of the fixed amounts, such as where an order for substituted service has been obtained, or where the action is against two or more defendants, or where the writ has been served a long distance from the nearest solicitor's office, a bill of costs should be made out and taken to the Registrar, who will tax the same.

The following is a form of Judgment in Default of Appearance :—

The day of 190

The Defendant not having appeared to the Writ of

Summons herein, it is this day adjudged that the Plaintiff recover against the said Defendant £ balance of £ the amount sued for and £ for Costs.

Registrar.

Where an order has been obtained for substituted service of writ, the form of judgment is as follows:—

The day of 190

The Defendant having been served by substituted service and not having, etc., etc.

Judgment may be signed after the expiration of eight days from the service of the writ—thus, in a writ served upon Monday, the judgment is due on the Tuesday week following.

Practical Directions.—Take the affidavit of service and the form of judgment, and file the same at the Court, together with the taxed bill of costs (if any).

For form of Judgment against Executors and Administrators see the notes to Order 14, Rule 1, in the "Annual Practice."

Where the claim upon the writ is for unliquidated damages, and the defendant has not appeared thereto, the judgment is only interlocutory, and the damages must be ascertained by writ of inquiry.

The following is the form of an Interlocutory Judgment:—

The day of 190

No appearance having been entered to the Writ of Summons [or no defence having been delivered by the Defendant] herein, it is this day adjudged that the Plaintiff recover against the Defendant the value of the goods [or damages, or both, as the case may be] to be assessed.

For forms of judgment generally see Appendix F in the "Annual Practice."

The costs of a judgment in default of appearance are fixed under Section 46 of the Salford Hundred Court Act 1868 by

the Order of Court dated 18th November 1878, in respect of actions over £10, and by the Order of Court dated 6th May 1895 in respect of actions under £10.

In signing judgment against a married woman for a debt incurred during coverture, the following words must be added to the judgment:—

Such sum and costs against the Defendant to be payable out of her separate property and not otherwise.

Care must be taken that judgment be not signed for more than the exact amount due. In Hughes *v.* Justin,[1] decided in the Court of Appeal, plaintiff instructed his solicitor to recover £25 due from defendant. Writ issued, and on the same day, after the issue of the writ, the plaintiff and defendant met, and the defendant paid to the plaintiff the sum of £25. 10*s.* in settlement of his account for goods up to that date. Neither of them then knew that the writ had been issued, and nothing was said about costs. When the writ was served upon the defendant he was told that he would have to pay the costs; he refused to do so, and did not enter an appearance to the writ. Judgment was signed against him, in default of appearance, for £25 and costs, and execution was levied for the amount of the costs only: Held, that the plaintiff being entitled to sign judgment for costs only, the judgment was irregular, and that defendant was entitled to have it set aside *ex debito justitiæ.*

[1] 10 T. Rep., 291 (1894).

CHAPTER XVI.

Setting aside Judgment for Want of Appearance, with leave for Defendant to Appear.

The Registrar may let in the defendant to defend, upon an application supported by a satisfactory affidavit, accounting for the non-appearance, and disclosing a good defence to the action upon the merits.

As a general rule, the defendant must pay the costs, and it is in the discretion of the Registrar to require the defendant to bring the amount claimed into Court.

Practical Directions.—Prepare an affidavit, accounting for the non-appearance of the defendant, and disclosing a good defence to the action upon the merits.

File the affidavit, and the summons will be granted calling upon the plaintiff to show cause why the judgment should not be set aside, and the defendant let in to defend.

The summons must state the grounds for the application.

All such summonses are returnable the third day from the issue thereof, but special leave can be obtained from the Registrar for an earlier hearing of the summons by application to the Registrar, stating to him the reasons for an earlier hearing.

If an order is made, and upon payment of the costs, and bringing the money into Court (if it should be so ordered), the Registrar will, upon the order being filed, strike out the judgment, and the defendant will then be entitled to enter an appearance.

The following is a form of the Affidavit in Support of the Summons :—

We, C. D., of , the above-named Defendant, and E. F., of , solicitor for the said C. D. in this action, severally make oath and say as follows :—

And first I, the said C. D., for myself say—

1. [*State the facts of the case, explaining satisfactorily why no appearance entered to the writ.*]

2. *For the reasons and under the circumstances aforesaid, I, the said C. D., did not appear to the said Writ of Summons, and I have not yet appeared thereto.*

3. [*State shortly facts, disclosing a defence to the action upon the merits.*]

4. *For the reasons and under the circumstances aforesaid I am advised and verily believe that I have a defence to this action upon the merits.*

And I, the said E. F., for myself make oath and say :—

5. *That judgment was signed in this action against the said Defendant, on the day of for want of an appearance (and execution was issued on the day of).*

If execution has been issued the Head Bailiff must also be made a party to the summons.

The following is a form of the summons :—

. . . . *to show cause why the judgment signed (and execution issued) herein should not be set aside and the Defendant let in to defend, upon the grounds* [*stating them*] *and more particularly set out in the joint affidavit of C.D. and E.F. sworn and filed herein.*

The following is a form of the order, with such variations, however, as the Registrar may require : —

It is ordered that upon payment by the Defendant of the costs thrown away and of this application, to be taxed, and upon the Defendant entering an appearance herein within three days of the date of the taxation of the Plaintiff's costs herein, the judgment signed (and execution issued) herein be set aside, and the Defendant be let in to defend (and it is further ordered that the Defendant be restrained from

bringing any action against the Plaintiff in respect of the said execution).

IRREGULARITY.

The following are the Rules of the Salford Hundred Court where the matter is one of irregularity on the part of the plaintiff:—

110. No application to set aside process or proceedings for irregularity shall be allowed unless made within a reasonable time, nor if the party applying has taken a fresh step after knowledge of the irregularity.

111. Where a summons is obtained to set aside proceedings for irregularity, the several objections intended to be insisted upon shall be stated therein.

112. In all cases where a rule is obtained to show cause why proceedings should not be set aside for irregularity, with costs, and such rule is afterwards discharged generally without any special direction upon the matter of costs, it is to be understood as discharged with costs.

Issue summons according to the following form:—

. . . . *for an order that* [*the Writ of Summons*] *in this action be set aside for irregularity, with costs to be taxed and paid by the to the on the ground that* [*here state in exact terms the irregularity*], *and that in the meantime all further proceedings herein be stayed.*

If the irregularity be apparent on the face of the proceedings no affidavit is necessary. In other cases the form of it must necessarily depend upon the circumstances of each particular case.

The order will follow the terms of the summons.

CHAPTER XVII.

Appearance.

The defendant must enter an appearance to the Writ of Summons within eight days after the service of the writ, inclusive of the day of such service, otherwise the plaintiff, at the expiration of that time, may sign judgment against him by default. If, however, the plaintiff has not signed judgment, the defendant may appear at any time before judgment, but must, without a moment's delay, give the proper notices to the plaintiff's solicitor of his having so appeared.

The mode of appearance to every Writ of Summons shall be by delivering at the Court two copies of a memorandum in writing according to the following form or to the like effect:—

In the Salford Hundred Court.

Between John Creditor, *Plaintiff.*

and

James Debtor, *Defendant.*

Enter an appearance for Jacob Debtor, sued as James Debtor, the Defendant in this action.

Dated this Tenth day of October 190

The Defendant requires a Statement of Claim to be filed.

Claim, £25. 16s. 0d.

Brief, Sons & Co.,

Solicitors for the Defendant,

1, Cross Street, in the City of Manchester.

The cause of action arose within the *District.*

One copy of the memorandum is retained by the Court, and the other copy is sealed and delivered back to the party entering the appearance, who must at once serve the same,

together with a notice of the appearance, to the plaintiff's solicitor.

The following is the form of the notice:—

In the Salford Hundred Court.

Between John Creditor, *Plaintiff,*

and

James Debtor, *Defendant,*

I have this day appeared for the Defendant, Jacob Debtor, sued as James Debtor, to the Writ issued out of this Court on the First day of October 1903.

The Defendant requires filing and delivery of a Statement of Claim.

Dated this Tenth day of October 1903.

Brief, Sons & Co., *of 1, Cross Street, in the City of Manchester, Solicitors for the said Defendant.*

To John Law,
1, Princess Street, Manchester,
Solicitor for the said Plaintiff.

Where it is desired to apply for a Writ of Prohibition, a conditional appearance may be entered to the writ to prevent judgment by default.

The following is the form for such Memorandum of Appearance:—

Enter a conditional appearance for the Defendant in this action, the cause of action not arising within the jurisdiction of this Court.

The notice of appearance must state that the defendant has conditionally appeared to the writ.

If the defendant should make a mistake in the name in the appearance, he should apply to the Court, by summons, to amend it.

If the defendant has been sued in the wrong name or by an initial letter, he should appear in his true name.

Where the defendants are a firm, the Memorandum of Appearance must contain the names of all the individual parties constituting the firm.

By Rule 21 of the Rules of the Salford Hundred Court:—

> 21. If two or more defendants in the same action shall appear by the same attorney, and at the same time, the names of all the defendants so appearing shall be inserted in one appearance.

Where the defendant is an infant an appearance must be entered by a guardian, and the solicitor applying to enter the appearance must make and file an affidavit in the Form No. 8 in Appendix A, Part 2, of the "Annual Practice," swearing that the proposed guardian is a fit and proper person.

The guardian has to sign a form of consent, for which also see Form No. 8 in Appendix A, Part 2, in the "Annual Practice."

By Rule 22 of the Rules of the Salford Hundred Court:—

> 22. A special admission of *prochein ami*, or guardian, to prosecute or defend for an infant, shall not be deemed an authority to prosecute or defend in any but the particular action or actions specified.

Order 12 of the Rules of the Supreme Court deals with appearances.

In some cases a defendant removes from his address and enters a personal appearance to the writ, giving an illusory or fictitious address. In such cases, after full enquiries made, a summons should be taken out to set aside the appearance, under Order 12, Rule 12, of the Rules of the Supreme Court.

The following is a form of the summons:—

> *For an order that the appearance entered herein by the Defendant be set aside for irregularity, on the ground*

that the address stated in the Defendant's Memorandum of Appearance is illusory and fictitious, and that the Defendant pay the costs of this application.

An affidavit must be filed stating that the deponent has attended at the address given in the Memorandum of Appearance and that the defendant cannot be found there, and that all enquiries as to his address have proved fruitless.

The Registrar may make an order on an *ex parte* application, or if he directs the summons to issue he will also direct the mode of service.

Practical Directions.—Fill up form of precipe as above, file the affidavit in support, attend before Registrar on application.

The order will run on the terms of the summons.

CHAPTER XVIII.

Notice to Plead.

The practice of the Salford Hundred Court differs from that of the High Court in that a Notice to Plead is required to be delivered to the defendant's solicitor before the plaintiff can sign judgment in default of defence, in all cases where the defendant requires a Statement of Claim to be filed and delivered.

Section 54 of the Salford Hundred Court Act reads thus:—

> The time for pleading in Bar, unless extended by the Registrar, shall be eight days, and a notice requiring the defendant to plead in eight days, or otherwise judgment, shall be served on the defendant or his attorney.

The following is a form of the notice:—

> *Take notice that the Defendant is hereby required to plead within eight days from the date hereof to the Statement of Claim indorsed on the Writ of Summons issued herein, and dated the First day of October 1903, otherwise judgment.*
>
> *Dated this 11th day of October 1903.*
>
> *Yours, etc.,*
> John Law,
> *1, Princess Street,*
> *Manchester,*
> *Plaintiff's Solicitor.*
>
> *To the above-named Defendant*
> *and to* Brief, Sons & Co., *of*
> *1, Cross Street, Manchester,*
> *his Solicitors.*

This notice must be served upon the defendant's solicitor,

and a copy endorsed with the date of service should be retained to prove the service thereof.

After the expiration of eight days from the service of the notice, the plaintiff may, if the defendant has not filed a defence, sign judgment in default of defence, and tax the costs and issue execution immediately, except that under the Rules of the Supreme Court judgment must not be signed until ten days from the time limited for appearance—within eighteen days trom the service of the writ, so the Notice to Plead should not be given until after the expiration of the tenth day from the service of the writ.

CHAPTER XIX.

Judgment after Confession.

Where, after an order has been made under Section 42 of the Salford Hundred Court of Record Act 1868, the defendant makes default in payment of his instalments, the plaintiff can at once sign judgment for the balance due.

The following is a form of the judgment:—

The day of 190

The Defendant having confessed the claim indorsed on the writ. And on the day of 190 , by an order of the Registrar it was ordered that upon payment of £ , the debt for which this action was brought, together with costs to be taxed, and paid as follows, viz.:—

until the whole amount of debt and costs be paid, all further proceedings should be stayed. And it was further ordered that in case default be made in payment as aforesaid, the Plaintiff should be at liberty to sign final judgment by confession for the said sum of £ or so much thereof as should be then due, besides costs of suit, and issue execution for the whole amount of the said debt and costs remaining unpaid at the time of such default, with costs of judgment and execution, bailiff's fees, and all other expenses of the execution.

And the said costs were taxed and allowed by the Registrar on the day of 190 at the sum of £ as appears by the certificate of the Registrar.

And the Defendant having made default in payment as ordered as aforesaid.

Therefore it is this day adjudged that the Plaintiff recover against the Defendant £ balance of £ the amount sued for, and £ the amount of the said taxed costs, making together £ , and also costs to be taxed.

Costs taxed and allowed at £

Registrar.

It will be seen that two sets of costs are allowed under the above judgment. The form of judgment must be altered where the amount of costs under the order has been fixed by the Registrar on the hearing of the summons.

Any time after service of the writ, and without the necessity of an appearance being entered, the plaintiff and defendant can either by themselves or through their solicitors consent to an immediate judgment.

The following is a form of consent to be signed by both parties:—

We consent to an immediate judgment being signed herein for £ for debt and £ for agreed costs, payable

When this is taken to the Court, an immediate order can be obtained. The order is filed at the Court, and judgment may then be signed.

No affidavit of service of the writ need be filed.

The following are the Rules of the Salford Hundred Court in reference to such orders:—

124. All written consents upon which orders for signing judgments are obtained shall be preserved in the Registrar's office.

125. In actions where the defendant has appeared by attorney, no such order shall be made unless the consent of the defendant be given by his attorney.

126. Where the defendant has not appeared, or has appeared in person, no such order shall be made unless the defendant attends the Registrar and gives his consent in person, except in a case where the defendant is a barrister, conveyancer, or attorney.

The following is a form of the judgment.

The day of 190

The Defendant having confessed the claim indorsed on the writ, and on the day of 190 by an order of the Registrar.

It was ordered that the Plaintiff be at liberty to enter final judgment for £ the amount of the claim, together with £ for costs to be paid as follows:— [*Follow the terms of the order*].

Therefore it is this day adjudged that the Plaintiff recover against the Defendant £ and £ for costs.

Registrar.

Where the costs have to be taxed, the form of the judgment will require alteration.

Where, after delivery of the Statement of Claim, the defendant confesses the debt, and wishes to pay the amount by instalments, a form of Consent for Order to Stay must be signed by both of the solicitors to the parties.

The following is a form of the consent:—

Here state the Form of Action } *Between*

Plaintiff

Here state the last proceeding. } *and*

Defendant.

* *If the agreement be so, here insert "Immediate Judgment with."* } *We consent to the usual order for**

(a) *Here insert "£ costs" or "costs to be taxed," and if so add "as between solicitor and client."* } *stay of proceedings upon payment of £ the debt and (a) as follows, viz.:—*

Dated this day of 190

Claim £

The action arose within the District.

Plaintiff's Solicitor.

Defendant's Solicitor.

This proceeding can, however, only be adopted *by consent* of both parties. Upon the consent being drawn up and signed, the same must be taken to the Court, whereupon an order is drawn up under the terms of the consent.

The following are precedents of such orders.

Upon hearing the solicitors or agents on both sides, and by consent, I order that upon payment of £ the debt for which this action is brought, together with £ costs, by the following instalments, viz.:—

All further proceedings in this action be stayed. And I further order that in case default be made in payment as aforesaid, the Plaintiff shall be at liberty to sign final judgment by confession for the said sum of £ besides costs of suit, and issue execution for the whole amount of the said debt and costs remaining unpaid at the time of such default, with costs of judgment and execution, bailiff's fees, and all other expenses of the execution.

Dated this day of 190

Upon hearing the Plaintiff's solicitor or agent, and the Defendant in person, and by consent, I order that upon payment of £ the debt for which this action is brought, together with £ costs, by the following instalments, viz.:—

All further proceedings in this action be stayed. And I further order that in case default be made in payment as aforesaid, the Plaintiff shall be at liberty to sign final judgment by confession for the said sum of £ besides costs of suit, and issue execution for the whole amount of the said debt and costs remaining unpaid at the time of such default, with costs of judgment and execution, bailiff's fees, and all other expenses of the execution.

Dated this day of 190

Upon hearing the solicitors or agents on both sides, and by consent, I order that the Statement of Defence filed herein be withdrawn, and that the Plaintiff shall be at liberty to sign final judgment by confession for £ besides costs of suit; and that upon payment of £ the debt for which this action is brought, together with costs to be taxed, by the following instalments, viz.:—

All further proceedings in this cause be stayed. And I further order that in case default be made in payment as aforesaid, the Plaintiff shall be at liberty to issue execution for the whole amount of the said debt and costs remaining unpaid at the time of such default, with costs of execution, bailiff's fees, and all other expenses of the execution.

Dated this day of 190

Upon hearing the solicitors or agents for the Plaintiff, and the Defendant in person, and by consent, I order that the Statement of Defence filed herein be withdrawn, and that the Plaintiff shall be at liberty to sign final judgment by confession for £ besides costs of suit; and that upon payment of £ the debt for which the action is brought, together with costs to be taxed, by the following instalments, viz.:—

All further proceedings in this action be stayed. And I further order that in case default be made in payment as aforesaid, the Plaintiff shall be at liberty to issue execution for the whole amount of the said debt and costs remaining unpaid at the time of such default, with costs of execution, bailiff's fees, and all other expenses of the execution.

Dated this day of 190

And the judgment must in terms follow the form of the order, the order being also annexed to the judgment.

The defendant may, at any stage of the proceedings in the action, issue a summons in the following form:—

To show cause why upon payment of £ the debt for which this action is brought, together with costs to be taxed, all further proceedings in this action should not be stayed.

This procedure is adopted where the defendant does not wish to proceed with his defence, and cannot get the plaintiff to agree upon an amount for costs, otherwise, upon payment by the defendant of the debt and agreed costs, the action is at once at an end.

CHAPTER XX.

Judgment Under Order 14, Rule 1.

The practice of the Salford Hundred Court in reference to the proceedings under Order 14, Rule 1, is the same in all respects as is prescribed by the Rules of the Supreme Court.

Practical Directions.—Fill up one of the usual printed forms of affidavit. In very simple cases and where the claim does not exceed £10 the following form is recommended:—

I, of in the County of make oath and say as follows:—

1. The above-named Defendant is justly and truly indebted to the above-named Plaintiff in the sum of £ : : for and was so indebted at the commencement of this action.

The Particulars of the said Claim appear by the Indorsement on the Writ of Summons in this action.

2. I am in the employ of the above-named Plaintiff and am duly authorised by to make this affidavit and it is within my own knowledge the aforesaid debt was incurred and for the consideration aforesaid.

3. I verily believe that there is no defence in this action.

Sworn, etc.

In more complicated cases the following is the usual form of affidavit:—

I, of in the County of the above-named Plaintiff make oath and say as follows:—

1. That on the day of 190 , the above-named Plaintiff caused a Writ of Summons to be issued out of this Honourable Court against the above-named Defendant , to recover the sum of £ : : which

was at the date of the commencement of this action and still is justly and truly owing by the above-named Defendant to

2. The said Writ of Summons was specially indorsed with the Particulars of the Plaintiff's Claim, and the following is a copy of such special indorsement:—

STATEMENT OF CLAIM.

The Plaintiff's claim is

3. I am informed and verily believe that the Defendant entered an appearance to this action in the said Court on the day of 190

4. [*State any admission of the debt.*]

5. I verily believe there is no defence to this action, and that the Defendant ha appeared for the purpose of delay.

Sworn, etc.

In paragraph 4 reference should be made to any correspondence or other documents in the defendant's handwriting by which he admits his indebtedness, and such documents should be exhibited to the affidavit.

File the affidavit, and hand the Clerk of the Court a form of precipe, with the words "Summons under Order 14, Rule 1," thereon.

The Clerk will hand you the summons and copy.

The following is the form of the summons:—

The day of 190
Upon reading the affidavit of

Let the Defendant, his solicitor or agent, attend the Registrar, at his office, Northern Assurance Buildings, Albert Square, Princess Street, in the City of Manchester, on

next, at eleven o'clock in the forenoon, to show cause why the Plaintiff should not be at liberty to sign final judgment against

in this action for £ . and costs to be taxed.

Serve upon the defendant a copy of the summons, copy of the affidavit, and copies of all the exhibits to the affidavit. Upon the hearing of the summons the same will be read by the Registrar, who will also read any affidavit filed on behalf of the defendant.

The solicitor acting for the defendant should by affidavit show a good or *primâ facie* defence to the action upon the merits.[1]

No affidavit by the plaintiff in reply to the defendant's affidavit will ordinarily be allowed, the Registrar's functions being not to try the action, but to see if the defendant has a defence to the action upon the merits.

On application under Order 14, the following orders may be made:—

1. Dismissal of application.
2. Unconditional leave to defend, with or without directions, under Order 30 of the Rules of the Supreme Court.
3. Leave to defend on terms, with or without directions, under Order 30.
4. Leave to defend as to part, judgment as to residue.
5. Judgment for the whole claim.
6. Judgment for claim, with stay of execution, until counterclaim is tried.

If the claim is not within Order 14, or the plaintiff, in the opinion of the Registrar, knew there was a good defence, the application will be dismissed with costs, to be

[1] Jacobs *v.* Booth's Distillery Co., 85 L. T. Rep., 262 (1901).

paid forthwith by the plaintiff, under the authority of Rule 9 of such Order.

If the Registrar gives leave to defend, an order to that effect is made out, and a copy must be delivered to the defendant's solicitor.

Various forms of orders under Order 14, Rule 1, will be found in Appendix K, Nos. 6 to 9c, in the "Annual Practice."

Where the defendant does not appear before the Registrar upon the hearing of the summons, the Registrar, after the expiration of a quarter of an hour, marks on the summons the attendance thereon of the plaintiff's solicitor, and it will further be necessary to file at the Court an affidavit of the service of the summons, and affidavits filed in support thereof, and exhibits (if any) therein referred to.

The following is the form of such affidavit:—

I, of in the make oath and say as follows:—

That I did, on the day of 190 before the hour of o'clock in the afternoon, serve a true copy of the summons hereunto annexed, marked "A," on Mr. the solicitor for the Defendant in this action, by leaving the same at the office of business of the said situate at in the City of Manchester, with his clerk there, and at the same time and place I duly served a true copy of the affidavit of the above-named Plaintiff filed herein, on the day of instant, together with a true copy of the exhibits therein referred to.

Where the defendant is a married woman, the Order for Judgment should contain these words:—

Such sum and costs to be payable out of her separate property and not otherwise.

Where the defendant raises matters not of defence but of counterclaim, an Order for Judgment for the whole amount

claimed may be made, but execution stayed until trial of counterclaim; but if the counterclaim is for a less sum than the claim, such stay of execution will be limited to a sum equal to the amount of the counterclaim.

The following is a form of judgment under Order 14, Rule 1:—

The day of 190

The Defendant having entered an appearance to the Writ of Summons in this action. And on the day of 190 by an order of the Deputy-Registrar it was ordered that the Plaintiff be at liberty to enter final judgment for £ : : the amount of the claim, together with costs to be taxed.

Therefore it is this day adjudged, that the Plaintiff recover against the Defendant the said £ : : and costs to be taxed.

Costs taxed and allowed at £ : :

Registrar.

For Form of Judgment against a Married Woman, see Appendix F, No. 5A, in the "Annual Practice."

CHAPTER XXI.

Parties and Joinder of Causes of Action.

The practitioner is referred to Order 16 of the Rules of the Supreme Court.

Change of Parties by Death.

The practitioner is referred to Order 17 of the Rules of the Supreme Court. The application should be made *ex parte*, and is generally granted as of course, although the Registrar may require the summons to issue where he considers it expedient, and it should be supported by an affidavit showing the event in consequence of which the change or transmission of interest or liability has taken place.

The affidavit should state:—

1. The stage at which the action has arrived.

2. The change that has occurred.

3. The title, interest, or liability of the party by or against whom it is desired to continue the action.

The following is a form of the affidavit:—

1. [*Show the stage at which the action has arrived.*] *This action was commenced on the day of 190 and the above-named Plaintiff on the day of 190 delivered his Statement of Claim.*

2. [*State the change that has occurred.*] *On the day of 190 the above-named Plaintiff died.*

3. [*Show the title, interest, or liability of the party by or against whom it is desired to continue the action.*] *The above-named Plaintiff by his last Will dated the day of 190 duly appointed A.B. executor thereof, and on the day of 190 his said Will was proved by the said A.B. in the principal Probate Registry of*

the High Court of Justice, who thereupon became and now is the Executor of the said Will.

4. [*State the manner in which it is proposed to continue the action.*]

The application should be made *ex parte*, and is granted as of course.

The following is a form of the order:—

Upon hearing the Solicitor for the Plaintiff, and upon reading the affidavit of it is ordered that the proceedings in this action be continued between and

See Order 17, Rule 5, of the Rules of the Supreme Court as to service of the order.

Joinder of Causes of Action.

The practitioner is referred to Order 18 of the Rules of the Supreme Court.

Section 48 of the Salford Hundred Court Act reads thus:—

Sec. 48. All causes of action of whatever kind, except ejectments, may be joined in the same suit, provided they be by and against the same parties and in the same rights; but the Registrar shall have power to prevent the trial of different causes of action together if such trial would be inexpedient, and in such case the Registrar may order separate records to be made up and separate trials to be had.

CHAPTER XXII.

Payment Into and Out of Court, and Tender.

Order 22 of the Rules of the Supreme Court deals fully with this subject.

If the defendant intends to pay money into court, he should do so with his appearance, so as to save costs, except where he intends to plead a tender before action, or a denial of liability.

The original receipt from the Court should be served upon the plaintiff's solicitor, together with the memorandum and notice of appearance, a copy of the receipt being made and retained with the papers in the action.

The plaintiff's solicitor can at once obtain the money so paid, out of Court (except where the money is paid in with a denial of liability, and he is unwilling to accept the money in satisfaction of the claim or cause of action in respect of which the payment into Court has been made), by getting an authority signed for that purpose by the plaintiff, and filing the same at the Court, together with a receipt for the money.

The following is a copy of the form:—

I authorise M *of* *my solicitor* *herein to receive out of Court on my behalf the sum of £ : : which the Defendant has paid in herein.*

Dated this *day of* *190*

Witness

The Plaintiff in this cause.

Manchester, the day of 190

Received out of Court the sum of pounds shillings and pence paid in on the day of 190

Solicitor for the Plaintiff.

£ : :

Claim £ : :

The cause of action arose within the District.

The money will be paid out by the Court on the day following the filing of the authority and receipt, upon payment to the Court of a small fee.

When money is paid into Court, such payment must be pleaded in all cases, and the defence should show the defences to the other portions of the plaintiff's claim.

For Notice of Payment into Court, see Appendix B, Part 2, No. 3, in the "Annual Practice."

For Acceptance of Sum Paid into Court, see Appendix B, Part 2, No. 4, in the "Annual Practice."

CHAPTER XXIII.

Reference or Arbitration.

References to the Registrar are now governed entirely by the Arbitration Act 1889, and in all cases where the defendant appears to the writ, and where the amount of debt sought to be recovered is substantially a matter of calculation, the proper course is to have the amount ascertained by the Registrar under Sections 14 to 27 of the Arbitration Act 1889.

Section 14 reads thus:—

> 14. In any cause or matter (other than a criminal proceeding by the Crown)—
>
> (*a*) If all the parties interested who are not under disability consent; or
>
> (*b*) If the cause or matter requires any prolonged examination of documents, or any scientific or local investigation which cannot in the opinion of the Court or a Judge conveniently be made before a jury, or conducted by the Court through its other ordinary officers; or
>
> (*c*) If the question in dispute consists wholly or in part of matters of account;
>
> the Court or a Judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or before an official referee or *officer* of the Court.

Practical Directions.—Obtain from the plaintiff two copies showing in detail the particulars of the plaintiff's claim.

Prepare an affidavit in the following form:—

I, of in the County of the above-named Plaintiff make oath and say as follows:—

That the matters in dispute in this action consist wholly of matters of mere account which cannot be conveniently tried in the ordinary way by a jury, full particulars whereof are hereunto annexed, marked "A."

File the affidavit and the exhibit at the Court, together with a precipe filled in thus:—

Summons for Arbitration under Sec. 14 of Arbitration Act 1889.

The Court Clerk will hand you a summons in the following form:—

To show cause why the whole of this cause should not be tried before the Deputy-Registrar, or the Chief Clerk of this Court, pursuant to Section 14 of the Arbitration Act 1889, and why the costs of this application should not be costs in the cause.

For form of the Order of Reference, see Appendix K, No. 33A, in the "Annual Practice."

If the defendant objects to the Order for Reference, he should appeal in a similar manner as is provided by the chapter relating to Appeals from Order of the Registrar.

If no appeal from the order of the Registrar be made the plaintiff should take the original Order of Reference to the Registrar, and obtain from him an appointment to proceed with the reference. The copy order and appointment must then immediately be served upon the defendant or his solicitor, and the reference will then proceed as an ordinary trial. If the defendant does not attend the appointment, there is no necessity for a second appointment to be made.

Writs of *subpœna ad testificandum* or of *subpœna duces tecum* to compel the attendance of witnesses are, under

Section 18 of the Arbitration Act 1889, issued in the ordinary way, subject however to the following alteration in the usual form:—

> *We command you and every of you that all things set aside and ceasing every excuse you and every of you be and appear in your proper persons before the Deputy-Registrar* [*or Chief Clerk*] *of this our Court of Record for the Hundred of Salford, in the County of Lancaster, at the office of the Registrar, Northern Assurance Buildings, Albert Square, in the City of Manchester, in the said county, on the day of 190 by of the clock in the forenoon of the same day, and so from day to day until the arbitration hereinafter mentioned be tried to testify the truth, according to your knowledge in a certain action now in our said Court, depending between Plaintiff and Defendant on the part of the etc.*

At the time and date of the appointment the Registrar or Chief Clerk will enquire into the matter, and having ascertained the amount due, he will then or afterwards make his award.

By Section 15, Sub-sec. 2, of the Arbitration Act 1889:—

> The report or award of any official or special referee or arbitrator on any such reference shall, unless set aside by the Court or a Judge, be equivalent to the verdict of a jury.

A copy of the award should at once be served upon the opposite party, whereupon judgment can at the date named in the award be signed for the amount found to be due.

If the amount of the award does not exceed £10 only County Court costs will be allowed.

Appeal from Award of the Arbitrator.

By Section 15, Sub-sec. 2, of the Arbitration Act 1889 the report or award may be enforced as the verdict of a jury, and therefore any appeal from the award of the arbitrator must be made not to the Judge of the Salford Hundred

Court but to a Divisional Court of the High Court of Justice under Section 91 of the Salford Hundred Court of Record Act 1868.

In dealing with references, the Arbitration Act 1889, to be found in Volume II. of the "Annual Practice," should be carefully considered. The application for reference set out in this chapter is under Section 14 of the Act, and not a reference by consent out of court, or a reference for report under Sections 1 to 13 of the Arbitration Act 1889. It is most important to remember this fact in dealing with the arbitration generally and to the powers of the arbitrator.

The following is a form of Judgment on Reference:—

The day of 190

The matters in dispute in this action having been referred to this certificate or award of the Registrar of this Court, and he having certified and found for the in the sum of pounds shillings and pence, it is this day adjudged that the recover against the £ and costs to be taxed.

Costs taxed and allowed at £

Registrar.

CHAPTER XXIV.

Summons for Directions.

The above summons must be taken out by the plaintiff in all actions to which Order 30 of the Rules of the Supreme Court applies compulsorily, and which were commenced after the 20th July 1903. The order is compulsory in all actions except (*a*) those in which the writ is specially indorsed under Order 3, Rule 6, of the Rules of the Supreme Court, in which cases it is optional; and (*b*) actions for trial without pleadings under Order 18A of the Rules of the Supreme Court. There are other exceptions which do not concern this Court, and for which the practitioner is referred to the Order itself.

The summons (which is returnable in not less than four days) must be taken out by the plaintiff within fourteen days from the appearance of the defendant, or, if there are more than one defendant, from the appearance by the defendant who first appears. The fourteen days are reckoned exclusively of the day the appearance is entered, so that the summons must be taken out on or before the fourteenth day from the appearance, including Sundays.

The Order does not apply until an appearance is entered, so that if the plaintiff wishes to (*e.g.*) amend the writ (not being specially indorsed) after service but before appearance, he must apply by ordinary summons. The defendant can apply by ordinary summons for any directions he may require before the plaintiff takes out his Summons for Directions, as he is not (as a plaintiff is) debarred from taking any steps in the action before taking out the summons.

Money paid into Court can be taken out if taken in satisfaction of the whole of the claim without issuing a Summons for Directions. No affidavit is to be used on the hearing of the summons without special order.

The following is the form of Summons for Directions :—

On the hearing of an application on the part of the Plaintiff for directions as follows :—

Pleadings.

Particulars.

Admissions.

Discovery.

Interrogatories.

Inspection of Documents.

Inspection of Real or Personal Property.

Commissions.

Examination of Witnesses.

Place of Trial.

Mode of Trial.

Any other interlocutory matter or thing.

Dated the day of 190

When once an Order for Directions has been made in an action, or leave to defend given to the defendant on the hearing of a summons under Order 14, Rule 1, whether directions are then given or not, either party must proceed by notice for any subsequent or further directions which he may require. This notice is stated by the Court, and must be served on the other side two clear days before the return day. If either party issues an ordinary summons when he ought to have applied by notice under Order 30, Rule 5, it is irregular, and the summons may be dismissed with costs ; or if an order is made upon it, the costs will probably be given against the party issuing the summons.

Although the notice under this order must be served two clear days before the return day, applications for further time may be taken out one day for the next by obtaining special leave from the Registrar. This is a practice rule, and although

convenient and almost necessary, it is doubtful if it can be upheld in view of the definite wording of Rule 5 of the Order which would appear to overrule Order 54, Rule 4E, of the Rules of the Supreme Court.

The attention of the practitioner is particularly directed to the procedure in the event of a defendant being given leave to defend on the hearing of a summons under Order 14, Rule 1. The effect of this is to convert the Order into an Order for Directions, whether directions are actually then given or not, and all further directions should be applied for by either party by notice.

If a summons under Order 14, Rule 1, is dismissed with costs on the ground that the writ is not specially indorsed within Order 3, Rule 6, the plaintiff is bound to issue a Summons for Directions under Order 30, Rule 1, before taking any further steps in the action. If, however, the summons is dismissed on the ground that the plaintiff knew the defendant relied on a defence sufficient to entitle him to leave to defend, the order will embody directions, and subsequent applications will be by notice.

If the plaintiff neglects to issue a Summons for Directions on or before the fourteenth day from entry of appearance by the defendant, the defendant may apply by ordinary summons to have the action dismissed for want of prosecution. On the hearing of this summons the Registrar will either dismiss the action or deal with the application as if it were a Summons for Directions.

In actions against a firm where a person served as a partner enters an appearance under protest under Order 48A, Rule 7, it would seem that the plaintiff is at liberty to take an ordinary summons to strike out either the appearance or the denial of partnership contained therein. If uncontested the effect of an appearance under protest is to nullify the service on the defendant firm, and therefore the time for issuing a Summons for Directions does not begin to run

against the plaintiff until an unconditional appearance has been entered or an issue taken on the question of the partnership of the person served and the denial struck out.

In the case of a conditional appearance under Order 12, Rule 30, of the Rules of the Supreme Court, the course for the plaintiff to pursue is different. Here the appearance is a complete appearance to the action, and cannot be ignored by the plaintiff, who should either wait a reasonable time for the defendant to make the application mentioned in his conditional appearance, or serve a notice upon the defendant calling upon him to make application within a few days.

If the defendant ignores the notice, or fails to apply for the relief specified within a reasonable time, the plaintiff may proceed to issue his Summons for Directions (if the action falls within the scope of Order 30), or otherwise proceed with the action.

The following is a form of Notice for Directions under Rule 5 of the Order:—

Take notice that the above-named Plaintiff [*or Defendant*] *intends to apply to the Registrar of this Honourable Court at his office, situate at the Northern Assurance Buildings, Albert Square* [*Princess Street*], *Manchester, on day the day of 190 at 11 o'clock in the forenoon, for further directions in this action as follows:—*

For an order that [*state the order for which the applicant intends to apply*], *and that the costs of and occasioned by such application be paid by the Defendant* [*or Plaintiff, or be costs in the cause*].

[*And further take notice that the above-named Plaintiff* [*or Defendant*] *intends to appear by counsel.*]

Dated this day of 190

(Signed) A. A.

Solicitor for the above-named Plaintiff [*or Defendant*].

To the above-named Defendant [*or Plaintiff*], *and to Mr. C., his Solicitor or Agent.*

The summons to dismiss the action for plaintiff's neglect to take out a summons for directions may be framed as follows:—

The day of 190

Let the Plaintiff or his solicitor attend the Registrar at his office, Northern Assurance Buildings, Albert Square [Princess Street], in the City of Manchester, on next, at 11 o'clock in the forenoon, to show cause why this action should not be dismissed, with costs to be taxed and paid by the Plaintiff to the Defendant; the Plaintiff having failed to take out a Summons for Directions pursuant to R. S. C. Order 30, and why the costs of this application should not be paid by the Plaintiff to the Defendant.

CHAPTER XXV.

Statement of Claim.

Order 20 of the Rules of the Supreme Court deals with Statements of Claim, and it should be remembered that in all cases coming under Order 3, Rule 6, of the Rules of the Supreme Court for a liquidated demand, the Statement of Claim should be indorsed upon the Writ of Summons, so as to get the benefit of the summons under Order 14, Rule 1.

Where the claim is other than a liquidated demand the Statement of Claim must not be filed or delivered until it is ordered by the Order for Directions. The proceedings are exactly similar to those of the High Court, except that in addition to delivering a copy of the pleading to the opposing party, a copy has also to be filed at the Court.

A Notice to Plead must also be served upon the opposite party, together with a copy of the Statement of Claim.

The following is a copy of the notice:—

Take notice that the Defendant is hereby required to plead within eight days from the date hereof to the Statement of Claim filed and dated the of 190 otherwise judgment.

Dated this day of 190

To the above-named Defendant and to of h solicitor.

Plaintiff's Solicitor.

Forms of Statements of Claim can be found in—

"Allen's Indorsements;"
"Cunningham and Mattinson's Pleadings;"
"The Annual Practice:" Appendix C;
"Bullen and Leake's Precedents;"

but in all cases of doubt or difficulty instructions should be laid before counsel to draw the pleadings, as the Registrar has power to allow, on taxation of costs, the fees paid to counsel for such purpose.

Order 19 of the Rules of the Supreme Court deals with pleading generally.

Section 50 of the Salford Hundred Court of Record Act reads thus:—

> Sec. 50. It shall not be necessary in any declaration to aver that any matter therein mentioned arose within the jurisdiction of the Court.

CHAPTER XXVI.

Demand for Particulars of Claim.

Where the Statement of Claim is indorsed upon the Writ of Summons, or filed afterwards, the defendant's solicitor may apply to the Court by summons for an order for further and better particulars, but the application must be made within a reasonable time, and cannot be made after delivery of defence except under very special circumstances.

Practical Directions.—Issue summons as follows:—

> *To show cause why the Plaintiff should not deliver to the Defendant a further and better account in writing, with dates and items of the particulars of claim for which this action is brought, and why in the meantime all further proceedings in the action should not be stayed, and why the costs of this application should not be costs in the cause.*

Attend the Court with same, when a summons can be obtained.

Serve a copy of it upon the opposite side.

No affidavit in support of the summons is necessary except where it is stated in the Statement of Claim endorsed on the writ that full particulars have been delivered to the defendant before action, and that such particulars exceed three folios.

In such case an affidavit by the defendant is necessary to prove that he has not been served with such particulars, or that the same are incomplete or unsatisfactory.

Attend the Court upon the return of the summons, and be ready to point out clearly to the Registrar where the Statement of Claim is deficient in its particulars.

Where no time for the delivery of the particulars is mentioned in the order, and the plaintiff does not deliver such particulars within a reasonable time from the date of the order, the defendant should take out a summons:—

> *To show cause why the Plaintiff should not within one week comply with the terms of the Order of Court, dated the day of 190 , and why in default thereof the action should not be dismissed with costs for want of prosecution, and why the Plaintiff should not pay the costs of and incidental to this application, together with the Defendant's costs in the cause.*

Where plaintiff is ordered to give particulars, one of the terms of the order may be that the action shall be dismissed unless the particulars are delivered within a certain time.[1]

If a Summons for Directions is or will be taken out, the party requiring the particulars should ask for them when the order is made, or should apply by notice under the order if it has been already made.

Rules 39 of 43 of the Rules of the Salford Hundred Court deal with the delivery of particulars.

[1] Davey *v.* Bentinck, 1893, L. R., Q. B. (C. A.), 185.

CHAPTER XXVII.

Judgment in Default of Defence.

Where the defendant in his appearance has demanded the filing and delivery of a Statement of Claim, or makes no mention of it, judgment in default of defence cannot be signed until the Notice to Plead has been served upon the defendant or his solicitor. The defendant has eight days from the service of the Notice to Plead in which to file and deliver his defence. The form of the judgment is as follows:—

The day of 190

The Defendant having appeared to the Writ of Summons, and not having filed and delivered a Statement of Defence herein, it is this day adjudged that the Plaintiff recover against the said Defendant £ : : the amount sued for and costs to be taxed.

Costs allowed at £ : :

Although this eight days' notice to plead must be given, judgment must not be signed until the expiration of ten days under the Rules of the Supreme Court.

Where the judgment is in default of any pleading, after appearance by the defendant, the affidavit of service of the writ need not be filed.

Practical Directions.—Fill up the form of judgment, and file the same at the Court. Make out the Bill of Costs, and make two copies thereof, one to serve upon the defendant and the other for the use of the Registrar upon the taxation.

Indorse upon the Bill of Costs the following memorandum:—

Take notice that I shall attend before the Registrar, at his offices, Northern Assurance Buildings, Albert Square, Manchester, to-morrow, day, the

day of *190* *, at twelve o'clock at noon, to tax the within costs.*

Dated the *day of* *190*

On Saturdays the time for taxation is 10-30.

Serve a copy of the Bill of Costs, together with the indorsed memorandum, upon the defendant or his solicitor, before six o'clock in the evening, or two o'clock if served on Saturday.

Attend the Registrar the following day promptly at twelve o'clock (10-30 on Saturdays) with all the papers and vouchers in the action, so as to prove the items in the bill.

After taxation file the Bill of Costs with the Clerk in the Court.

Where the claim does not exceed £10, only County Court costs will be allowed.

CHAPTER XXVIII.

Statement of Defence.

Order 21 of the Rules of the Supreme Court deals with Statements of Defence. For forms of Defence, see Appendix D of the "Annual Practice."

If the defendant requires further time to defend, he should attend the plaintiff's solicitor with two forms of consent for further time, one to be signed by the plaintiff's solicitor, and the other to be handed to him, to be retained amongst his papers in the action. If the plaintiff should decline to grant the time asked for, the defendant should take out a summons for further time to plead.

The following is a form of the summons:—

To show cause why the Defendant should not have further time to file Statement of Defence in this action.

Practical Directions.—Go to the Registrar's office, and obtain a summons for further time to plead. Make a copy of the summons and serve it upon the plaintiff's solicitor before six o'clock in the evening, or before two o'clock on Saturdays. Attend before the Registrar upon the return of the summons, and upon showing him the necessity of further time being granted the Registrar will make an order.

If the order is for *further* time to plead, the time will not begin to count until after the time has expired which the defendant already had at the time the order was made. If the word "further" is not in the order, the time will begin to count from the date of the order.

If an Order for Directions has been made, notice of application for time must be given under that order.

The following is the form of defence where it is intended to plead to the jurisdiction of the Court:—

The Defendant says that the whole of the alleged cause of action did not arise within the jurisdiction of this Court, but if any such cause of action exists, the same arose either partly or exclusively at in the County of which is a place outside the jurisdiction of this Court, and the Defendant therefore contends that this Court has no jurisdiction to try this action.

This plea must be supported by an affidavit to be made and filed by the defendant, the plea being annexed to the affidavit, it being usual to write the affidavit upon the first page of a sheet of foolscap, and the plea upon the third page of the foolscap.

The following is a form of the affidavit:—

That the plea to the jurisdiction of this Court hereunto annexed, marked "A," is true in substance and in fact.

Copies of the plea and the affidavit must be served upon the plaintiff's solicitor.

Rule 29 of the Rules of the Salford Hundred Court reads thus:—

29. All pleas to the jurisdiction shall be filed, together with an affidavit verifying the same, and notice thereof given to the opposite party *before the expiration of four days* from the service of the notice of the declaration filed.

Security for Plaintiff's Costs in Action of Tort.

Where the action is one of tort, and the plaintiff has no visible means of paying the costs of the defendant should a verdict be not found for the plaintiff, the defendant should take advantage of Section 52 of the Salford Hundred Court Act, which reads thus:—

Sec. 52. It shall be lawful for any person against whom an action of tort is brought in the Court to make at any time after declaration an affidavit that the plaintiff has no visible means of paying the costs of the defendant should a verdict be not found for the plaintiff, and thereupon the

Registrar or Judge shall have power to make an order that unless the plaintiff shall, within a time to be therein mentioned, give full security for the defendant's costs to the satisfaction of the Registrar, or satisfy the Registrar or Judge that he has a cause of action fit to be prosecuted in the Court, all proceedings in the action shall be stayed.

The following is a form of the Affidavit in Support:—

I, James Debtor, of 1, High Street, Manchester, in the County of Lancaster, cabinet maker, the above-named Defendant, make oath and say as follows:—

1. On the day of 190 , an action was commenced against me in this Honourable Court by the above-named Plaintiff for damages for [wrongful imprisonment, or as the case may be].

2. On the day of 190 , an appearance was entered in this action by me.

3. The residence of the above-named Plaintiff is indorsed on the Writ of Summons as being 1, Wilmslow Road, Manchester aforesaid.

4. On the day of 190 , I attended at such address and saw who informed me that the above-named Plaintiff is only a lodger at such address and has no goods or property whatever, and I further say that from enquiries made by me, the above-named Plaintiff is out of employment and has no visible means of paying the costs of me the said Defendant should a verdict be not found for him.

5. The above-named Plaintiff has no cause of action ft to be prosecuted in this Court.

Sworn, etc.

The following is a form of the summons:—

Upon reading the affidavit of James Debtor [formal parts as usual] to show cause why an order should not be made under Section 52 of the Salford Hundred Court of Record Act 1868

that the Plaintiff give security for the Defendant's costs in this action, to the satisfaction of the Registrar, and why in the meantime all further proceedings should not be stayed on the grounds that the Plaintiff has no visible means of paying the Defendant's costs should a verdict be not found for the Plaintiff.

In actions which could NOT be tried in the County Court, it will be difficult to satisfy the Registrar the plaintiff has not a cause of action fit to be prosecuted in the Court.

CHAPTER XXIX.

Counterclaim.

By Order 21, Rule 10, of the Rules of the Supreme Court—

> Where any defendant seeks to rely upon any grounds as supporting a right of counterclaim, he shall, in his Statement of Defence, state specifically that he does so by way of counterclaim.

A Counterclaim is in the nature of a cross action.

A Counterclaim is governed by the same rules of pleading as a Statement of Claim, and the reply to it by the same rules as a Defence.

Order 21, Rules 10 to 17, of the Rules of the Supreme Court deals with Counterclaims.

For form of Defence and Counterclaim, see Appendix D, Section 1, in the "Annual Practice."

The practitioner should consider the Judicature Act 1884, Section 18, in reference to the jurisdiction of the Salford Hundred Court in counterclaims.

CHAPTER XXX.

Third Party Proceedings for Contribution or Indemnity.

Order 16, Rule 48, of the Rules of the Supreme Court deals with this procedure. Application for leave to issue and serve notice under this rule is obtained on an *ex parte* application supported by an Affidavit in Support.

The following is a form of such affidavit :—

I, C.D., the above-named Defendant, make oath and say as follows :—

1. This action is brought against me by the above-named Plaintiff for [here state concisely the nature of the Plaintiff's claim].

2. I entered an appearance herein on the day of 190 , and the Plaintiff on the delivered his Statement of Claim. I have not yet delivered my Defence [stating what proceedings have been taken].

3. State concisely the nature of the claim to contribution or indemnity that the Defendant has against the third party, and the facts on which he bases it. This will, of course, vary with the facts of each particular case. Sufficient should be stated to show a clear primâ facie right to the contribution or indemnity sought; for instance [

]

By an Indenture, dated and made between myself of the one part and T. P., of , of the other part, the said T. P. covenanted to indemnify me against the Plaintiff's said claim herein. The said Indenture is now produced and shown to me, marked "A" [or by an Indenture, dated and made, etc. (as above), I assigned the said Lease, upon the covenants whereof I am sued

herein, to the said T. P.; and the alleged breaches of covenant occurred, if at all, after such assignment and whilst the said T. P. held the said premises thereunder; and I am advised and verily believe that he is liable to indemnify me against the Plaintiff's claim herein in respect of such alleged breaches. Or, the said Bill of Exchange sued on herein was accepted by me wholly for the accommodation of T. P., of and not otherwise; and I claim to be indemnified by the said T. P. against the Plaintiff's said claim herein].

The following is a form of the application to the Court:—

As solicitor for and on behalf of the above-named Defendant, and on the grounds set forth in the affidavit of the above-named Defendant filed herein on the day of 190 , I apply that the above-named Defendant be allowed, under Order 16, Rule 48, of the Rules of the Supreme Court, to issue a Third Party Notice against of

Solicitor for the above-named Defendant.

The Third Party Notice will be drafted upon the lines set out in Appendix B, Part 2, No. 1, in the "Annual Practice," and approved by the Registrar, after which an order will be made giving defendant leave to issue and serve the Third Party Notice.

The form of the order is to be found in Appendix K, No. 23, in the "Annual Practice."

Personal service of a copy of the order, the Third Party Notice, together with the Writ of Summons and Statement of Claim in the action, is necessary.

The form of appearance by such third party is to be found in Appendix A, Part 2, No. 5, in the "Annual Practice."

If the party so served with the Third Party Notice fails to appear, an affidavit of due service must be sworn, whereupon judgment may be signed against such third party under Rules 49, 50, and 51 of Order 16 of the Rules of the Supreme Court.

Plaintiff's own judgment should, however, be first satisfied by the defendant, otherwise an order to enter judgment must be obtained :—

The following is a form of the affidavit :—

I., S. C., of [clerk to Mr. M. N., of the same place], solicitor in this action to the above-named Defendant C. D., make oath and say as follows :—

1. I did, on the day of 190 , at [place of service], serve T. P., of the person named in the Third Party Notice now produced and shown to me, and marked "A," with a true copy af the said notice ; and also with a true copy of the Statement of Claim or [Writ of Summons] in this action, by delivering the said copies to him, and leaving the same with him personally.

2. I did, on the day of 190 , satisfy the judgment dated the day of 190 , obtained in this action by the Plaintiff against the Defendant, by paying on his behalf the sum of £ , the whole amount then due upon the said judgment for debt, costs, and interest to the Plaintiff [or to X. Y., the solicitor in this action to the Plaintiff, and his agent to receive the said payment (or otherwise state the satisfaction of the judgment according to the facts)].

The following is a form of the judgment :—

The day of 190

The said third party [T. P.] mentioned in the Third Party Notice herein, dated the day of 190 , not having appeared herein to such Third Party Notice, and the Defendant having satisfied the judgment herein entered against himself on the day of 190 as appears by an affidavit of , filed herein this day [or and pursuant to the order herein, made by , dated the day of 190 whereby it was ordered that (recite the terms of the order)],

it is this day adjudged that the Defendant recover against the said T. P. the sum of £ [*insert amount, according to the contribution or indemnity claimed. Judgment for costs cannot be entered against the third party without an order under R. S. C., Order 16, Rule 54, unless the Third Party Notice claimed contribution or indemnity in respect of costs to be recovered by the Plaintiff against the Defendant.*]

In case the third party appears to the notice a Summons for Directions must be issued under Order 16, Rule 52, of the Rules of the Supreme Court, and Rule 53 specifies what directions may be given.

Forms of Summons and Order for Third Party Directions will be found in Appendix K, Nos. 4E and 4F, in the "Annual Practice."

All the costs of third party proceedings are in the discretion of the Court, and an order must be obtained therefor under Order 16, Rule 54, of the Rules of the Supreme Court.

CHAPTER XXXI.

Reply and Subsequent Pleadings.

Order 23 of the Rules of the Supreme Court deals with reply and subsequent pleadings.

These pleadings follow exactly the procedure of the High Court, except that it is necessary to file a copy of the pleading, as well as delivering a copy to the opposite side.

No reply can now be filed or delivered except by order of the Registrar.

CHAPTER XXXII.

Matters Arising Pending the Action.

Order 24 of the Rules of the Supreme Court deals with matters arising pending the action.

In some cases a defendant in his defence alleges a ground of defence which arose after the commencement of the action; the plaintiff may then, under Order 24, Rule 3, of the Rules of the Supreme Court, deliver a confession of such defence and may sign judgment for his costs.

For form of Notice by Plaintiff Confessing Defence, see Appendix B, Part 2, Form 5, in the "Annual Practice."

For form of judgment see Appendix F, Form 15, in the "Annual Practice."

The following is a form of Notice of Change of Solicitor under Order 7, Rule 3, of the Rules of the Supreme Court:—

Take notice that I, the above-named Plaintiff, have changed my solicitor herein and appointed Mr. Septimus Lex, *of 2, Northern Street, Manchester, as my solicitor, to sue for me herein in the place of* Mr. John Law, *and that the address for service of the said* Mr. Septimus Lex *is 2, Northern Street aforesaid.*

Dated the *day of* *190*

(Signature).

To the Defendant,

To Brief, Sons & Co., *his Solicitors,*
and to all persons whom it may concern.

CHAPTER XXXIII.

Discontinuance.

Under Order 26, Rule 1, of the Rules of the Supreme Court the plaintiff may at any time, before taking any further proceedings after defence (save any interlocutory application), by notice in writing discontinue the action.

The following is a form of the notice:—

Take notice that the Plaintiff hereby wholly discontinues this action.

Dated, etc. *(Signed)*

Upon receipt of the notice the defendant may immediately tax his costs, and if the same be not paid within four days he may sign judgment upon the notice under Order 26, Rule 3, of the Rules of the Supreme Court.

For form of judgment, see Appendix F, No. 14, in the "Annual Practice."

After the entry of the cause for trial, the plaintiff must obtain an order of court before he can discontinue the action, or upon the hearing of the cause he may elect to be non-suited.

Order 26 of the Rules of the Supreme Court deals with discontinuance, and the Rules and Notes thereto in the "Annual Practice" should be carefully perused.

The following is a form of the summons:—

To show cause why an order should not be made that the Plaintiff be at liberty to discontinue this action.

If the defendant desires to withdraw his defence, the following is a form of the summons:—

> *To show cause why an order should not be made that the Defendant be at liberty to withdraw his defence herein in pursuance of the Rules of the Supreme Court, Order 26, Rule 1.*

If an Order for Directions has been made in the action, notices under that order must be given instead of the above summonses.

CHAPTER XXXIV.

Order to Dismiss Action.

When a plaintiff neglects, at any stage of the proceedings, to proceed in the action within the respective periods of time allowed by the Rules of the Supreme Court, the defendant may take out a summons against the plaintiff in the following form:—

> *To show cause why this action should not be dismissed for want of prosecution, with costs, on the ground that the Plaintiff has not [here state the default], within the time required by Order Rule of the Rules of the Supreme Court.*

No Affidavit in Support of the Summons is required, but upon the hearing of the summons the defendant must show how the plaintiff is in default.

The following is the usual form of order:—

> *The day of 190*
>
> *Upon hearing the solicitors on both sides,*
>
> *I do order that this action be dismissed for want of prosecution, with costs, to be taxed and paid by the Plaintiff to the Defendant, and that the costs of this application be paid by the Plaintiff to the Defendant.*

The plaintiff, upon the hearing of the summons, should apply to the Court that the order be made in the following form:—

> *I do order that unless the Plaintiff do within days [give notice of trial, or whatever the nature of the default may be], this action, etc.*

In that case the defendant should apply that the costs be his in any event.

For form of Writ of *Fieri Facias* on Order for Costs, see Appendix H, No. 2, of the "Annual Practice."

The practitioner is referred to the notes under Order 27, Rule 11, of the "Annual Practice" for further information referring to the dismissal of actions.

Order 27 of the Rules of the Supreme Court deals with default of pleading.

For form of judgment, see Appendix F, No. 11A, in the "Annual Practice."

CHAPTER XXXV.

Discovery, Inspection, Interrogatories.

The practice of the Court in reference to discovery by interrogatories is exactly similar to that of the High Court, as set out in Order 31, Rules 1 to 11, of the Rules of the Supreme Court.

The following is the form of the Application under the Order for Directions:—

> *For an order that the Plaintiff should be at liberty to deliver to the Defendant or his solicitor interrogatories in writing, and that the Defendant should within ten days answer the questions in writing by affidavit, to be filed pursuant to the statute.*

The form of the order will be found in Appendix K, Form 16, in the "Annual Practice."

For form of interrogatories, see Appendix B, Part 2, No. 6, and for answer to same, No. 7, in the "Annual Practice."

Discovery of Documents.

Order 31, Rules 12 and 13, of the Rules of the Supreme Court deals with the order for discovery of documents.

The following is a copy of the Application under the Order for Directions:—

> *For an order that the Plaintiff should answer on affidavit within seven days, stating what documents he has or has had in his possession or power relating to the matters in dispute in this action, or what he knows as to the custody they or any or either of them are in, and whether he objects (and if so on what grounds) to the production of such as are in his possession or power.*

The form of the order is as follows:—

The day of 190

Upon hearing the solicitors or agents on both sides, I do order that the do within days answer on affidavit stating what documents he has or has had in his possession or power relating to the matters in dispute in this case, or what he knows as to the custody they or any or either of them are in, and whether he objects (and if so on what grounds) to the production of such as are in his possession or power, and I further order [*as to costs*].

For form of Affidavit as to Documents, see Appendix B, Part 2, No. 8, in the "Annual Practice."

Production and Inspection of Documents referred to in the Pleading.

Order 31, Rules 14 to 18, of the Rules of the Supreme Court deals with the production and inspection of documents referred to in the pleadings.

For Notice to Produce such Documents, see Appendix B, Part 2, No. 9, in the "Annual Practice."

For Notice to Inspect such Documents, see Appendix B, Part 2, No. 10, in the "Annual Practice."

If no order for directions has been made in the action, summonses must be taken out for the purpose.

A Form of Order for Production of Documents, under Order 31, Rule 14, of the Rules of the Supreme Court, will be found in Appendix K, No. 18, in the "Annual Practice."

Under Order 31, Rule 21, where a party has not complied with an Order to Answer Interrogatories, or for Discovery of Documents, etc., the other party may apply to dismiss the action or apply for attachment.

The following is a form of Summons by Defendant to Dismiss Action:—

For an order that this action be dismissed for want of prosecution, with costs to be taxed and paid by the Plaintiff to the Defendant, pursuant to Rules of Supreme Court, Order 31, Rule 21, the Plaintiff having failed to comply with the order herein, made by the Registrar, dated to answer interrogatories [*or for discovery of documents, or for inspection of documents, as the case may be*], *and that the costs of and occasioned by this application be paid by the Plaintiff to the Defendant* [*or be the Defendant's in any event*].

The following is a form of Summons by Plaintiff to Strike Out Defence:—

For an order that the Defendant's defence herein be struck out, and the Defendant be placed in the same position as if he had not defended, and the Plaintiff be at liberty to sign judgment for £ , the amount claimed herein [*with interest thereon at the rate of per cent per annum from until judgment*], *and his costs of this action (including the costs of this application) to be taxed* [*or to sign judgment for damages to be assessed, or as the case may require*], *the Defendant having failed to comply* [*etc., see form above*].

CHAPTER XXXVI.

Admissions.

Order 32 of the Rules of the Supreme Court deals with admissions.

Notice to Admit Documents.

Order 32, Rules 2 and 3, of the Rules of the Supreme Court deals with the Notice to Admit Documents.

For form of notice, see Appendix B, Part 2, No. 11, in the "Annual Practice."

In order to obtain the costs of proving a document at the trial, it is necessary to serve a Notice to Admit, but practitioners are *most strongly advised* not to give such notice, as it is clearly not advisable to let the opposite party know what documentary evidence it is intended to produce at the trial.

It is much better not to give the Notice to Admit, but in that event the cost of proving the documents will, as a matter of course, fall on the party not giving the notice as required.

Practical Directions.—Obtain a printed form of the Notice to Inspect and Admit, describe therein with particularity the documents required to be admitted, and make a true copy of it. Serve it in the same manner as a summons on the solicitor for the opposite party. Have the documents ready to produce when called for. If the opposite party agrees to make the admissions, write a consent at the foot of the notice, and let it be signed by him in your presence. The following is a form of the admission :—

> *I hereby make the admissions required in the within notice (or so far as the same relates to the several documents therein mentioned) marked respectively 1, 4, 7, and I refuse to make any other of the admissions required.*

Then make an affidavit of the fact, according to the form given below, and annex the notice and admissions thereto:—

> *I was present on the day of 190 , and did see* John Law, *the solicitor for the above-named Plaintiff in this cause, sign the admission hereunto annexed, marked "A," and the signature "Jno. Law" subscribed to the said admission is of the proper handwriting of the said* John Law.

At the trial be prepared to produce the Notice to Admit and admissions, together with the affidavit and the documents.

If the admissions have not been made, be prepared to prove the service of the Notice to Inspect and Admit, and prove the documents in the usual way.

Notice to Admit Facts.

Order 32, Rules 4 to 7, of the Rules of the Supreme Court, deals with the admission of facts.

For form of Notice to Admit Facts, see Appendix B, Part 2, No. 12, in the "Annual Practice."

For Admission of Facts Pursuant to Notice, see Appendix B, Part 2, No. 13, in the "Annual Practice."

The profession should remember the importance of using these forms, as the opposite party may upon the taxation of costs object to the allowance of any witnesses coming from a distance whose expenses may be considerable, and who have simply been called to prove certain facts which might have been admitted on a Notice to Admit Facts.

Notice to Produce.

Order 32, Rule 8, of the Rules of the Supreme Court deals with notices to produce.

For form of notice see Appendix B, Part 2, No. 14, in the "Annual Practice."

If a document which would be evidence in support of the case is in the possession of the opposite party, he should be served with a notice to produce it at the trial, and if he should then omit to produce it, upon proving the service of the notice, and that the document is in his possession, secondary evidence of its contents may be given. If the notice is not given, secondary evidence cannot be given. The notice may be served upon the solicitor of the opposite party, or on the party himself, but it need not be personally served. It should be served a reasonable time before the trial.

If a document is in Court at the trial, a notice to produce it immediately is sufficient to render secondary evidence of its contents admissible if it be not produced. The solicitor is bound to answer whether a document which he has received from his client is in his possession or elsewhere in the Court.

Practical Directions.—Obtain a printed form of the Notice to Produce, describe therein with particularity the documents you require to be produced, and make a true copy of it. Serve it in the same manner as a summons. Have the Notice to Produce in Court at the trial, and be prepared to prove the service of it. To do this it is advisable that the person who has the actual management of the case should himself serve the notice, saving thereby the attendance of a special clerk at the Court.

If a Notice to Admit the Notice to Produce has been included in the Notice to Admit, the proof of the service may be by affidavit.

The following is a form of Affidavit of Service of Notices to Produce and Admit:—

I, E. F., of , clerk to X. Y., of the same place, the solicitor in this action for the above-named Plaintiff [or Defendant], make oath and say as follows:—

1. I did, on the day of 190 , between the hours of and in the noon, serve D. Z., the solicitor in this action for the above-named

Defendant [*or Plaintiff*], *C. D., with a Notice to Produce in this action, a true copy whereof is hereto annexed* [*or now produced and shown to me*], *and marked "A," by delivering the same to and leaving it with the said , or a clerk or servant to the said , at his office or place of business or house, situate at in the County of , being the address for service in this action.*

2. I did also on the day of 190 , between the hours of and in the noon, serve the said [*etc., as above*] *with a Notice to Admit in this action, a true copy whereof is hereto annexed* [*or now produced and shown to me*], *and marked "B," by delivering* [*etc., as above*].

3. The Notice to Produce referred to in the said Notice to Admit is the Notice to Produce mentioned in paragraph 1 hereof, and the Notice to Admit referred to in the said Notice to Produce is the Notice to Admit mentioned in paragraph 2 hereof.

Sworn, etc.

CHAPTER XXXVII.

Special Case.

Sections 59, 61, 62, and 63 of the Salford Hundred Court of Record Act have reference to the trials of questions of law by special case.

Order 34 of the Rules of the Supreme Court deals specially with the trials of questions of law by special case, as also Chapter 117 of Chitty's "Archbold Practice of the King's Bench Division."

The following is a form of Special Case stated by Consent :—

[*Usual heading.*]

Special Case.

This action was commenced on the day of 190 by a Writ of Summons, whereby the Plaintiff claimed £ [state the claim as in the writ], and the parties have concurred in stating the questions of law arising herein in the following case for the opinion of the Court.

[*Here state concisely the facts and documents necessary to enable the Court to decide the questions raised in the case. This statement must be divided into paragraphs, numbered consecutively. Each paragraph should, as far as possible, contain a distinct allegation, and be complete in itself.*]

[*Conclude thus*] :—

The questions for the opinion of the Court are :—

First. Whether ?

Second. Whether ?

If the Court shall be of opinion in the affirmative [or negative, as the case may be], then judgment shall be entered up for the Plaintiff for £ and costs of suit. If the Court shall be of opinion in the negative [or affirmative, as

the case may be], *then judgment shall be entered up for the Defendant with his costs of defence.*

Dated the day of 190

Plaintiff's Solicitor.

Defendant's Solicitor.

It is presumed that no special case will be stated without the consent of all parties, although either party may apply by summons to have questions of law decided by special case before questions of fact.

A Memorandum of Entry of Special Case for Argument will have to be filed in the Court.

The following is a form of the memorandum :—

Set down the special case dated the day of 190 for hearing as a special case at the sitting of the Court to be holden on the day of 190

The following is a form of Order for Judgment on Special Case :—

Upon reading the special case stated herein, and hearing Mr. , of , counsel for the Plaintiff, and Mr. , of , counsel for the Defendant, it is ordered that judgment be entered for the Plaintiff for £ and costs of suit [*or for the Defendant for his costs of defence*], *pursuant to the said special case.*

The following is a form of Judgment on Special Case :—

This action having on the day of 190 come on for hearing by special case before Henry Gordon Shee, Esq., K.C., *Judge of this Court, it was, by order of Court, ordered* [*follow the terms of the order*].

It is this day adjudged that the Plaintiff recover against the Defendant £ : : and costs to be taxed [*or that the Plaintiff recover nothing against the Defendant, and that the Defendant recover against the Plaintiff his costs to be taxed*].

CHAPTER XXXVIII.

Evidence.

Order 37 of the Rules of the Supreme Court deals with evidence generally.

Examination of Witnesses.

Sections 101, 102, 103, 104, 105, 106, 107, and 108 of the Salford Hundred Court Act have reference to the examination of witnesses unable to attend the trial of any issue, and of witnesses abroad.

The following is the Rule of the Salford Hundred Court thereon :—

> 55. All depositions of witnesses taken under an Order of the Court, or Registrar, or a Writ of Commission, shall be returned to and filed in the office of the Registrar of this Court.

Order 37 of the Rules of the Supreme Court (Rules 5 to 25) deals specially with reference to the depositions of witnesses.

Where a witness is unable to attend the trial through illness, old age, or infirmity, the Court may, under Order 37, Rule 5, of the Rules of the Supreme Court, direct him to be examined at his own residence or some other convenient place.

In such case an order of Court for that purpose must be obtained. The following is a form of application under the Order for Directions :—

> *Take notice that I shall apply under the Order for Directions dated the day of 190 , before the Registrar, at his offices, Northern Assurance Buildings,*

Albert Square [Princess Street], in the City of Manchester, on the day of 190 , at eleven of the clock in the forenoon, for an order that a witness on behalf of the above-named Defendant, be examined, viva voce, on oath or affirmation before a Special Examiner; I, the undersigned, undertaking to give to the [Plaintiff's] solicitors seven days' notice in writing of the time and place where the examination is to take place.

Dated the day of 190

Defendant's Solicitor.

Two affidavits should be filed in support of the application, the first by a medical practitioner, stating the condition in health, etc., of the proposed witness, and the second by the solicitor in the action, stating the position of the action, etc.

The following is a form of the second affidavit:—

1. This action is brought by the above-named Plaintiff [state the cause of action].

2. The pleadings in the action are now closed.

3. of is a material and necessary witness for the above-named Defendant in this action. The above-named Defendant cannot safely proceed to the trial thereof without his evidence.

4. The said is dangerously ill and not expected to recover, and is in such a condition that he cannot attend any Court of Justice to give evidence.

Sworn, etc.

The parties should then agree upon a special examiner. Very often the Registrar of the County Court in which the witness resides is chosen, but if any dispute arises thereon the name of the special examiner will be fixed by the Registrar on the hearing of the summons, but in any case the written consent of the proposed special examiner should first be obtained.

The following is a form of order:—

Upon hearing , solicitor for the above-named Plaintiff, and , solicitor for the above-named Defendant, and upon reading the affidavit of , filed the day of , and the affidavit of , filed the day of , it is ordered that , of , a witness on behalf of the above-named Defendant, be examined at , viva voce, on oath or affirmation before the Registrar of the County Court of holden at , Special Examiner, or some other Special Examiner to be agreed upon between the solicitors to the parties hereto, the Defendant's solicitor giving to the Plaintiff's solicitor seven days' notice in writing of the time and place where the examination is to take place; and it is further ordered that the examination so taken be filed in this Honourable Court, and that an office copy or copies thereof may be read and given in evidence on the trial of this action, saving all just exceptions, without any further proof of the absence of the said witness than the affidavit of the solicitor for the above-named Defendant as to his belief, and that the costs of this application be costs in the cause.

If desired counsel may attend upon such examination.

Schedule 10 of the Borough and Local Courts of Record Act 1872 reads thus:—

> 10. Upon the application of any of the parties to any such action depending in the Court, any one of the Judges of the superior courts at Westminster may order a commission to issue for the examination of witnesses upon oath at any place or places beyond the limits of England and Wales by interrogatories or otherwise, and by the same or any subsequent order or orders may give all such directions touching the time, place, and manner of such examinations, and all other matters and circumstances connected with such examination, as may appear reasonable and just.

In order to secure the attendance of witnesses at the trial it will be necessary to issue a *subpœna ad test*, and serve each witness with a copy of it.

One *subpœna ad test* may contain the names of any number of witnesses, but a fresh fee will have to be paid for every three names.

It is always advisable to subpœna the witnesses, although they may profess to be friendly and promise to attend the trial and give evidence.

Witnesses out of the jurisdiction may be served with a subpœna as is provided by Section 100 of the Act, which reads thus:—

> Sec. 100. Where any *subpœna ad testificandum*, or any process in the nature thereof, shall be issued by either party in any suit depending in the Court, and the party to whom the same shall be issued shall be residing out of the Hundred, the service of such subpœna or other process in any part of England or Wales shall be as valid as if the same had been served within the Hundred; and the party at whose instance such subpœna or process was issued shall have all the same remedies against the person named therein in case of non-attendance as he would have had in case such person were resident within the Hundred, and had been duly served therein with such subpœna or process.

The *subpœna duces tecum*, to compel a person to produce documents, can only contain the names of three witnesses.

Practical Directions.—Fill in a form of precipe and a subpœna, and, without the necessity of filling in any of the names, take the same to the Court, where upon payment of a fee the subpœna will be sealed and handed back to the party issuing it. Only insert one name in each copy which is to be served, and examine the same very closely with the original. The copy must be served personally upon the witness, and at the same time a sum sufficient to pay the expenses of the witness to the Assize Courts must be handed to the witness.

The party being served must be shown at the time of service the original subpœna.

Order 37, Rules 26 to 34, of the Rules of the Supreme Court deals with subpœnas.

The following are forms of *subpœna ad test* and *subpœna duces tecum*; the former for attendance of witness, the latter both for attendance of witness and also production of documents :—

EDWARD THE SEVENTH, *by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, Defender of the Faith, Emperor of India.*

To

Greeting : We command you and every of you that all things set aside and ceasing every excuse you and every of you be and appear in your proper persons before the Judge of our Court of Record for the Hundred of Salford, in the County of Lancaster, at the Assize Courts, Strangeways, in the City of Manchester, in the said county, on the day of 190 , by of the clock in the forenoon of the same day, and so from day to day until the cause hereinafter mentioned be tried to testify the truth, according to your knowledge in a certain action now in our said Court, depending between

Plaintiff

and

Defendant

on the part of the

and this you nor any of you shall in no wise omit under the penalty of every of you of fifty pounds.

WITNESS, *The Right Honourable* OSBERT CECIL, *Earl of Sefton, High Steward of the said Court at Manchester, in the said Hundred, the day of in the year of our Lord One thousand hundred*

This Writ was issued by of in the City of Manchester, Solicitor for the

EDWARD THE SEVENTH, *by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, Defender of the Faith, Emperor of India.*

To

Greeting: We command you and every of you that all things set aside and ceasing every excuse you and every of you be and appear in your proper persons before the Judge of our Court of Record for the Hundred of Salford, in the County of Lancaster, at the next sitting of the said Court for the Trial of Issues at the Assize Courts, Strangeways, in the City of Manchester, in the said county, on the day of 190 by of the clock in the forenoon of the same day, and so from day to day until the action hereinafter mentioned be tried; and also that you bring with you and produce at the time and place aforesaid

to testify the truth, according to the best of your knowledge, in a certain action now depending in our said Court between

Plaintiff

and

Defendant

on the part of the
and this you nor any of you shall in no wise omit under the penalty of every of you of fifty pounds.

WITNESS, *The Right Honourable* OSBERT CECIL, *Earl of Sefton, High Steward of the said Court at Manchester, in the said Hundred, the day of 190*

This Writ was issued by
of in the City of Manchester,
Solicitor for the

CHAPTER XXXIX.

Notice of Trial.

Six days' notice of trial must be given, and not ten days', as in the High Court.

The following are the Rules of the Salford Hundred Court thereon :—

58. Six days' notice shall be given, as well for the trial of an issue in fact as for the execution of an inquiry.

60. The expression "Short Notice of Trial" or "Short Notice of Inquiry" shall, in all cases, be taken to mean four days'.

The following is a form of the notice :—

Take notice of trial of this action at the sitting of this Court, to be holden on the day of 190 in the Assize Courts, Strangeways, in the City of Manchester, in the County of Lancaster.

Dated this day of 190

Plaintiff's Solicitor,
Street,
Manchester.

To

Defendant's Solicitor.

The cause of action arose within the District.

Notice of trial cannot be countermanded unless by order of the Court after summons taken out for that purpose.

The practitioner is reminded that in calculating numbers of days less than six, Sundays are not to be included, so that as the Court usually sits at the beginning of a week, short notice of trial will in practice be only one day shorter than the usual notice.

Under Rule 61 of the Rules of the Salford Hundred Court defendant can under certain circumstances enter the cause for trial.

CHAPTER XL.

Entry of Cause for Trial.

The cause may be entered for trial at any time after the pleadings have been closed, and after Notice of Trial has been served upon the opposite party.

The cause must be entered six days before the sitting day of the Court for which the same is intended to be entered.

Practical Directions.—Make two copies of the pleadings on foolscap paper; and it is advisable that such copies should be on one side of the paper only, thereby making them more easily read by the Judge.

When completed, this is called "the Record," and must be filed at the Court, together with a notice of Setting Down the Action for Trial.

The following is a form of the notice:—

Between *Plaintiff*
and *Defendant*

Brief, Sons & Co.,
Defendant's Solicitors.

To be tried at the sitting of the Court to be holden on the day of 190

To the Registrar,

Claim £ : :

John Law,
Solicitor for the Plaintiff,
1, Princess Street, Manchester.

The cause of action arose within the District.

CHAPTER XLI.

Putting Off the Trial.

Where the action has been entered for trial and the plaintiff is anxious to delay the hearing, he should, before the day of the trial, take out the following summons (or give notice under the Order for Directions) :—

To show cause why the Plaintiff should not be at liberty to withdraw the record herein.

The application should be supported by an affidavit showing sufficient grounds for the delay. If the Registrar is satisfied, he will make an order, *e.g.* :—

The day of 190

Upon hearing the solicitors and agents on both sides, I do order that the Plaintiff be at liberty to withdraw the record herein, and that the Defendant's costs of the day, to be taxed, be paid by the Plaintiff before the re-entry of the cause for trial.

Where a defendant cannot safely proceed to trial on account of the absence of a material witness, and perhaps on other special grounds, counsel on his behalf should apply for an adjournment upon the first day of the sitting of the Court. The application should be supported by an affidavit showing the grounds on which it is made, and if the application be granted, it will probably be on payment of any costs the opposite party has incurred in preparing for the trial, and which will be rendered useless by the trial being postponed.

The following is a form of summons :—

To show cause why an order should not be made that the trial of this action be postponed until the next sittings of the Court on the grounds that

The following is a form of Affidavit in Support :—

I, James Debtor, of , the above-named Defendant, make oath and say as follows :—

1. Notice of Trial was given in this action on the day of 190

2. John Smith, of , is a material and necessary witness for me in this action, and I am advised and verily believe that I cannot safely proceed to the trial thereof without the testimony of the said John Smith.

3. The said John Smith is now at [*state where, as also any further particulars*].

4. After the Notice of Trial was so given as aforesaid, and in order to prepare for such trial, I [*state fully the diligent enquiries that have been made after the witness, and the time when he is likely to return and attend, or other facts to induce the Court to grant the application*].

CHAPTER XLII.

The Brief, Trial, and Verdict.

The brief should contain a verbatim copy of the pleadings, a full statement of the facts and circumstances of the case, and the evidence in support thereof. It should be fair copied on brief paper, written on one side only.

Fold the brief lengthways, indorse and deliver it to counsel, and pay his fees. The solicitor should search the list every afternoon to see if his cause is in the list for the following day, and if so, whatever the position in the list, the solicitor should be there the next morning at the opening of the Court with his witnesses, as it is impossible to say how soon the case may be reached.

A printed list of the causes entered for trial is made out, and can be obtained at the Registrar's office a few days before the sitting day of the Court.

If the plaintiff considers that his evidence is not sufficient to enable him to go on with his case, he should ask for an adjournment of the hearing to a subsequent sitting of the Court, which will generally be granted on the terms that the plaintiff pays the costs of the day.

If, however, the plaintiff sees no chance of perfecting his evidence within a reasonable time he should ask to be nonsuited, which leaves him at liberty to commence a fresh action against the defendant when prepared with better evidence, but he cannot now claim as of right to be nonsuited, nor can he dismiss his action.[1]

If the plaintiff be nonsuited instead of submitting to a verdict against him, he may afterwards commence another

[1] Fox *v.* Star, etc., 1898, 1 Q. B., 636.

action against the defendant, when prepared with better evidence. In the case of a nonsuit the defendant is entitled to the costs of the cause.

If the plaintiff should in such event, however, commence a fresh action for the same cause, without paying the costs of the preceding action, the defendant should at once take out a summons—

> *To show cause why the action should not be stayed until the Plaintiff has paid to the Defendant the sum of £ being the amount of taxed costs allowed by the Court in an action between the same parties and for the same cause of action on the day of 190 , and why the Plaintiff should not pay the costs, etc.*

At the trial the parties may agree to withdraw a juror, which has the effect of putting an end to the action altogether. Each party has then to pay his own costs.

The trial of the cause proceeds in an exactly similar way to one tried by the High Court, and after the verdict has been given, the Registrar indorses on the back of the record the finding of the jury, and the party who substantially succeeds at the trial will obtain from the Registrar a certificate for the entry of judgment.

For further particulars as to the proceedings on a trial, the practitioner is referred to Order 36, Rules 31 to 42, of the Rules of the Supreme Court.

CHAPTER XLIII.

Costs, Affidavit of Increase, and Judgment.

The scale of costs in every proceeding in the Court can be found at the end of this book.

In all cases where the Writ of Summons is for a liquidated demand, and such writ has been specially indorsed, the plaintiff on signing judgment in default of appearance will be entitled to a fixed sum for costs, which is regulated according to the amount he recovers, and he is not entitled to any more costs unless there are special circumstances in the case, such as the fact of an order for substituted service of the writ having been obtained, or where there are two or more defendants who have not appeared to the writ, or where the defendant has obtained time to pay the debt and costs under Section 42 of the Act, and the costs may then be taxed in the ordinary manner.

In all cases where the Writ of Summons is for a liquidated demand, and after appearance by the defendant the plaintiff recovers a sum not exceeding £10, the plaintiff is strictly limited to the County Court scale. In other cases the plaintiff is entitled to the costs on the second scale where he recovers a sum not exceeding £20, and is entitled to the costs on the third scale where he recovers a sum exceeding £20.

The following are the sections of the Salford Hundred Court of Record Act 1868 in reference to costs:—

> Sec. 131. If in any action brought in the Court which could have been brought in a County Court the verdict recovered is for a less sum than Ten Pounds, the plaintiff shall not recover from the defendant a greater amount of costs than he would have been allowed if the action had been brought in such County Court, unless the Judge shall

certify that the action was a fit one to be brought in the Court, and it shall not be necessary to enter any suggestions on the record to deprive such plaintiff of costs.

Sec. 132. If the plaintiff shall in any action recover a less sum than the sum in that behalf hereinbefore mentioned by verdict, and the Judge shall certify on the record that it appeared to him that the action was a fit one to be brought in the Court, the plaintiff shall in such case have judgment to recover his full costs of suit.

(But see below.)

Sec. 133. If the plaintiff in any action shall recover a less sum than the sum in that behalf hereinbefore mentioned, where there is no verdict, the plaintiff shall in such case have judgment to recover his full costs of suit.

The powers of the Judge, under Section 131, to certify for a greater amount of costs than those allowed on the County Court scale are now taken away by the County Courts Act 1888 (51 and 52 Victoria, Cap. 43, Sec. 117), which reads thus:—

Where any action shall be brought in any other Court than the High Court which could have been brought in a County Court, and the verdict recovered is for a less sum than £10, the plaintiff shall not recover from the defendant a greater amount of costs than he would have been allowed if the action had been brought in a County Court.

When a verdict is found for the defendant he is entitled to his costs according to the scale applicable to the sum sought to be recovered by the plaintiff, and he is not, like a plaintiff, tied down to County Court costs.

The Rules of the Salford Hundred Court in reference to costs are numbered 75 to 88 and 140 to 145.

No Affidavit of Increase should be made unless required, but the payments of fees to counsel and witnesses should be vouched for on taxation.

The following is a form of an Affidavit of Increase:—

I, E. F., of , in the County of Lancaster, gentleman, solicitor for the above Plaintiff [or Defendant] in this action make oath and say as follows :—

1. That the above-named action was entered for trial at the sitting holden on the day of last [or instant], and was tried on the day of last [or instant], when a verdict was found for the Plaintiff [or Defendant].

2. That subpœnas were issued in this action on the part of the above-named Plaintiff [or Defendant], and that I did cause to be subpœnaed as witnesses on the part of the above-named Plaintiff [or Defendant] in this action the several persons hereinafter named, and that the residence of each of them is distant from the City of Manchester, in the said county, the number of miles set opposite their respective names.

3. That each of the said several witnesses attended the trial of this action, and were necessarily in attendance at the said sitting as witnesses on the part of the above-named Plaintiff [or Defendant] the number of days hereinafter mentioned, and that they were all, in my judgment and belief, material and necessary witnesses on his behalf, and that the above-named Plaintiff [or Defendant] could not safely have gone to trial without such witnesses; and that all the said witnesses did attend the said sitting for the purpose of giving evidence on the trial of this action, and that neither of them was attending on that occasion as a witness in any other action to my knowledge or belief; and that the said Plaintiff [or Defendant] was a material and necessary witness on his own behalf on the trial of this action, and was necessarily in attendance at the said sitting days, and that he was not a witness in any other action to my knowledge or belief; and that they have been severally paid for such attendance the sum set in a line with their respective names, that is to say :—

Name of Witnesses.	Residence.	Occupation.	Days in Attendance	Mileage.	Sums Paid.
J. M. ...	Rochdale ...	Commission Agent	2	12	
T. E. ...	Birmingham	Manager	4	84	
B. D. ...	Salford	Cotton Spinner ...	2		
G. S. ..	Manchester.	Yarn Agent.....	2		

4. That the following fees have been paid to counsel on behalf of the said Plaintiff [or Defendant] in this action, that is to say, to Mr.

5. That the Court fees paid on the part of the said Plaintiff [or Defendant] in this action amounted to the sum of

Sworn, etc.

AFFIDAVIT OF INCREASE BY THE MANAGING CLERK OF THE SOLICITOR.

I, G. H., of , in the county of Lancaster, managing clerk to E. F., of the same place, gentleman, solicitor for the above-named Plaintiff [or Defendant] in this action, make oath and say as follows :—

1. That I have had the management and conduct of this action on behalf of the above-named Plaintiff [or Defendant] and that, etc.

[Here follow on as in the previous form.]

Order 65 of the Rules of the Supreme Court deals with costs.

Practical Directions.—Immediately after the trial, attend the Registrar and pay him the Court fees, whereupon he will hand you the certificate for entry of judgment.

Obtain the brief from counsel, and see that the fee indorsed thereon is marked as paid with the signature of counsel himself; pay the witnesses and obtain from them written receipts for the money.

Obtain a printed form of judgment for the plaintiff, or the defendant, as the case may be. Fill in the blanks, following strictly the wording of the certificate.

The following are the forms of such judgments :—

FINAL JUDGMENT FOR PLAINTIFF AFTER TRIAL BY JURY.

The day 190

This action having on the day of 190 been tried before , Judge of this Court, and a common jury of the said Hundred, and the jury having found
and the said Judge having ordered that judgment be entered for the Plaintiff.

Therefore it is adjudged that the Plaintiff recover against the Defendant the sum of £ for and £ for his costs of suit.

JUDGMENT FOR DEFENDANT AFTER TRIAL BY JURY.

The day of 190

This action having on the day of 190 been tried before , Judge of this Court, and a common jury of the said Hundred, and the jury having found
and the said Judge having ordered that judgment be entered for the Defendant.

Therefore it is adjudged that the Plaintiff recover nothing against the Defendant, and that the Defendant recover against the Plaintiff £ for his costs of defence.

Attend the Court and file the certificate and the judgment.

The following is the Rule of the Salford Hundred Court in reference to judgments :—

74. All judgments, whether interlocutory or final, shall be entered of record of the day of the month and year when signed, and shall not have relation to any other day; but it shall be competent for the Court or the Registrar to order a

judgment to be entered *nunc pro tunc;* and every judgment paper shall be filed with the Registrar at the time of the signing such judgment.

Make a draft of the Bills of Costs, and two copies; indorse on the back of one copy a Notice of Taxation.

The following is a form of Notice of Taxation :—

Take notice, I shall attend before the Registrar at his offices, Northern Assurance Buildings, Albert Square [Princess Street], in the City of Manchester, to-morrow (Tuesday), the first day of November 1903, at twelve o'clock at noon, to tax the within costs.

Dated the 31st day of October 1903.

JOHN LAW,
Plaintiff's Solicitor,
1, Princess Street, Manchester.

To BRIEF, SONS & Co.,
Defendant's Solicitors,
1, Cross Street, Manchester.

If it be necessary to make an Affidavit of Increase, do so, and include the costs in the Bill of Costs; make a copy of the affidavit and deliver it with a copy of the Bill of Costs and Notice of Taxation to the opposite party. Take care that the costs, etc., are delivered before six o'clock in the evening, or on Saturdays before two o'clock.

Attend at the Registrar's office at the time appointed for taxation (which is twelve o'clock at noon, except Saturdays, when it is 10-30 a.m.), and after waiting a quarter of an hour for the arrival of the opposite party, give the Registrar the Bill of Costs. Be sure and have with you every document necessary for the proving each item in the Bill of Costs. The Registrar will tax the costs, and after deducting the amount taxed off, he will give the allocatur at the foot or end thereof. Take the Bill of Costs and file it with the Clerk of the Court. The judgment will then be considered complete. If the opposite party be entitled to the costs of any issue or order, such costs should be taxed at the same time, and the amount

deducted from the general costs of the cause. After taxation, execution can issue immediately.

The following are the sections of the Salford Hundred Court of Record Act in reference to costs:—

> Sec. 46. The sum for costs for which judgment may be signed and execution had under the Twenty-seventh and Twenty-eighth Sections respectively of "The Common Law Procedure Act 1852" shall be fixed by the Registrar, subject to the approval of the Judge and of one of the Masters of the Court of Queen's Bench at *Westminster*.
>
> Sec. 79. The costs may be taxed by the Registrar, and final judgment signed and execution issued on any day subsequent to the day on which the issue may have been tried or the inquiry executed, provided that any Judge for the time being, or the Registrar, may in either of such cases order proceedings to be stayed for such time and on such terms as he may deem fit.
>
> Sec. 80. If there shall be cross judgment between the parties, execution shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum; and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Review of Taxation.

Order 65, Rule 27, Sub-secs. 39 to 42, of the Rules of the Supreme Court deals with objections to and review of taxation of costs.

If you have any objections to make in reference to the taxation by the Registrar of any items in a Bill of Costs, ask him to suspend his allocatur until you can carry in objections. The Registrar will then fix a time for the objections to be made and argued. Deliver at once to the opposite party and to the Registrar a Notice of Objections to Taxation somewhat in the following form:—

The following are objections made by [the Defendant] to the taxation of the Deputy-Registrar of the Bill of Costs of [the Plaintiff] herein, pursuant to the order of the Court dated, etc.

The [Defendant] objects to the allowance [or disallowance] of the following items of the said bill, viz. :—

for the following reasons, viz. :—

(See Chitty's "King's Bench Forms.")

All the grounds for such review must be laid before the Registrar.

If still dissatisfied, the party may then, within fourteen days from the date of the allocatur, take out a summons before the Judge to review the taxation. Upon the review before the Registrar, the party bringing in the bill should ask in any case for a certificate for the items not objected to; and the party objecting (if he is liable to pay the costs) should ask that the payment of the items objected to be allowed to stand over until after the review by the Judge.

The following is a form of the summons:—

To show cause why the taxation of costs herein by the Registrar on the day of should not be reviewed, and why the objections made by the [Defendant] to the allowance [or disallowance] of the several items specified in the said objections should not be allowed, and the said items disallowed [allowed], and why the costs of and occasioned by this application, etc.

This summons will be heard before the Judge at the Assize Courts.

Affidavit of Increase and Judgment.

Where there are two defendants, and judgment is given against one defendant, he being ordered to pay the plaintiff's costs of the action, such costs include the whole of the plaintiff's costs in the action.[1]

[1] Kelly's *v.* Gavin, 1901, 2 Ch., 765.

CHAPTER XLIV.

Motion for New Trial.

The following are the sections of the Salford Hundred Court of Record Act relative to the granting of new trials, where leave is granted by the Judge:—

Sec. 60. The proceedings to set aside the verdict and order a new trial to be had, or to enter the verdict for either party according to leave reserved at the trial, shall be the same as in ordinary actions.

Sec. 89. If upon the trial of any issue the Judge shall grant leave to the plaintiff or defendant to move in any one of the superior courts to set aside a verdict or nonsuit, and to enter a verdict for the plaintiff or defendant, or to enter a nonsuit, or to arrest the judgment, or for judgment *non obstante veredicto*, as the case may be, or for a new trial, the party to whom such leave may have been given may apply by motion to such superior court within such period of time as the Judge shall then appoint for a rule to show cause why such verdict or nonsuit should not be set aside, and a verdict entered for the plaintiff or defendant, or a nonsuit entered, or the judgment arrested, or judgment *non obstante veredicto* entered, or why a new trial should not be had, as the case may be, in such action, which superior court is hereby authorised and empowered to grant or refuse such rule (which rule, when granted, shall operate as a stay of proceedings until the determination thereof), and afterwards to proceed to hear and determine the merits thereof, and to make such orders thereupon and as to the costs as the same court shall think proper; and in case such court shall order a new trial to be had in any such action, the party obtaining such order shall deliver the same, or an office copy thereof, to the Registrar, and thereupon all the proceedings on the former verdict or nonsuit shall cease,

and the action shall proceed to trial according to the practice of the Court in like manner as if no trial had been had therein; or in case the Court before whom such rule shall be heard shall order the same to be discharged, the party obtaining any such order may, upon delivering the same, or an office copy thereof, to the Registrar, be at liberty to proceed in any such action as if no such Rule Nisi had been obtained; and if a verdict be ordered to be entered for the plaintiff or defendant, or a nonsuit be ordered, or judgment be ordered to be arrested, or judgment *non obstante veredicto* be ordered to be entered, as the case may be, judgment shall be entered accordingly; and the proceedings to set aside the verdict and order a new trial to be had, or to enter a verdict for either party, according to leave reserved at the trial, shall be the same as in ordinary cases.

Sec. 90. Nothing herein contained shall prevent the Judge from granting a new trial, or setting aside a nonsuit, or entering a nonsuit or a verdict.

The following are the Rules of the Salford Hundred Court in reference thereto :—

71. No motion for a new trial, or to enter a verdict or nonsuit, motion in arrest of judgment, or for judgment *non obstante veredicto*, shall be allowed, except by leave of the Judge, after the expiration of four days from the day of trial.

72. No affidavit shall be used in support of a motion for a new trial, unless such affidavit shall have been made within the time limited for making such motion, without the special permission of the Judge for that purpose.

73. If a new trial be granted without any mention of costs in the rule, the costs of the first trial shall not be allowed to the successful party though he succeed on the second.[1]

It is the general practice of the Court to appeal to the High Court under Section 91 of the Salford Hundred Court

[1] But see Field *v.* G. N. Ry. Coy., 3 Ex. D., 261 (1878).

of Record Act, instead of applying for a new trial in the Court itself, but there exists no reason, in cases where the verdict is given manifestly against the weight of evidence, why a new trial should not be asked for under Sections 89 and 90 above set out.

The following is a form of such Notice of Motion:—

Take notice that the Court will be moved on the day of , at ten o'clock in the forenoon, or so soon thereafter as counsel can be heard, by Mr. of counsel on behalf of the for an order that the verdict [or nonsuit] obtained in this action be set aside, and a new trial had between the parties on the grounds that [such as, that the verdict was against the weight of evidence].

And that in the meantime further proceedings be stayed.

The following is a form of order in such case:—

It is ordered that the verdict [and judgment] obtained in this action be set aside, and a new trial had between the parties, on the grounds that, etc.

The pleadings on the first trial will suffice for the second. A fresh Notice of Trial must be given.

The Judge at the second trial has full power over the whole costs, and may even order the successful party to pay them.

CHAPTER XLV.

Appeal from a Judgment of the Court of Record.

Section 43 of the Judicature Act 1873 reads thus:—

> All appeals from Petty or Quarter Sessions, from a County Court, or from any other inferior court, which might, before the passing of this Act, have been brought to any court or Judge whose jurisdiction is by this Act transferred to the High Court of Justice, may be heard and determined by Divisional Courts of the said High Court of Justice, consisting respectively of such of the Judges thereof as may from time to time be assigned for that purpose, pursuant to the Rules of Court, or (subject to Rules of Court) as may be so assigned according to arrangements made for the purpose by the Judges of the said High Court. The determination of such appeals respectively by such Divisional Courts shall be final, unless special leave to appeal from the same to the Court of Appeal shall be given by the Divisional Court by which any such appeal from an inferior court shall have been heard.

Rule 4 of Order 59 of the Rules of the Supreme Court reads thus:—

> Every Judge of the High Court of Justice for the time being shall be a Judge to hear and determine appeals from inferior courts, under Section 45 of the principal Act. All such appeals (except Probate and Admiralty appeals from inferior courts, and from Justices, which shall be to a Divisional Court of the Probate, Divorce, and Admiralty Division), shall be entered in one list by the Officers of the Crown Office Department of the Central Office, and shall be heard by such Divisional Court of the Queen's Bench Division as the Lord Chief Justice of England shall from time to time direct.

Rules 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of Order 59 of the Rules of the Supreme Court have reference to appeals from the Court of Record, and should be carefully studied when an appeal is intended to be made against a decision of the Judge.

The following is the section of the Salford Hundred Court of Record Act in reference to an appeal from a verdict given in the Court of Record:—

> Sec. 91. It shall be lawful for any party to any suit in the Court who shall be dissatisfied with any verdict or judgment given or any nonsuit entered against him in any action which shall have been tried in the Court to apply, within one month next after such verdict or judgment given or nonsuit entered, to any of the superior courts or to any Judge of any of the said courts, for a rule to show cause why a new trial of such action should not be granted, or nonsuit set aside and a new trial granted, or a verdict entered, or judgment for the plaintiff or defendant or a nonsuit entered, as the case may be, in the same manner as is customary in actions depending in the superior courts and tried at Nisi Prius before any Judge of Assize by virtue of any record in any of the superior courts, and thereupon it shall be lawful for any of the superior courts, or any Judge of one of the superior courts, to grant such rule, and to hear and determine the merits of the same in like manner as in actions depending in the superior courts and tried as aforesaid; and in case any of the superior courts, or any Judge of one of the superior courts, shall make the rule absolute (which they are severally empowered to do upon such terms as they shall respectively think reasonable), then on delivery of an office copy of such rule by the party who shall have obtained the same to the Registrar all proceedings upon the former verdict, judgment, or nonsuit so obtained in the court shall cease, and the said action shall proceed anew to a trial in the Court, or a verdict or judgment for the plaintiff or defendant or a nonsuit shall be entered according to the tenor of such absolute rule; Provided always that it shall not be lawful for

any party to move for any such rule, nor shall any such rule be of any force unless and until the party intending to apply for such rule shall become bound by recognisance, with two sufficient sureties to be approved by the Registrar, in such reasonable sums as he shall deem sufficient for the security of the party against whom such rule is to be applied for, that the party intending to apply for such rule will, in case such rule is not granted, or in case it be granted and not made absolute, pay the debt, damages, and costs, or the damages and costs, or costs, as the case may be, adjudged or to be adjudged, and all costs incurred by the other party in showing cause against the rule: Provided that no proceedings upon such verdict, judgment, or nonsuit shall be stayed where such application is not made by leave of the Judge, until such security shall have been given, but the giving of such security shall operate as a stay of proceedings until the expiration of the said month, and until the decision of the rule, in case such rule to show cause be granted within such month, but when the application shall be made by leave of the Judge such leave shall operate as a stay of proceedings for one month.

NOTE.—See interpretation of "action," p. 4. An interpleader issue is not an action.

Chapter 68 of Chitty's "Archbold Practice of the King's Bench Division" deals fully with the practice in reference to new trials.

The following is a form of the recognisance referred to in the section:—

IN THE SALFORD HUNDRED COURT.

Between *Plaintiff,*

and

Defendant.

In the Hundred of Salford, } *To wit*
in the County of Lancaster, }

This day of A.D. 190

WHEREAS, *by a certain Act of Parliament made and passed in the Sessions of Parliament holden in the thirty-*

first and thirty-second years of the reign of Her late Majesty Queen Victoria, entitled "The Salford Hundred Court of Record Act 1868," the Court of Record for the Hundred of Salford, in the County of Lancaster, was constituted. And Whereas *an interpleader issue was lately pending in the said Court wherein the said was Plaintiff and the said was Defendant, and which said issue came on to be tried at a Court holden for the trial of issues in law and fact on the day of last past, at the Assize Courts, Strangeways, Manchester, and within the jurisdiction of the said Court, before , the Judge of the said Court, when a verdict was found for the Plaintiff, and thereupon the said Judge directed that each of the said parties should bear and pay their own cost of such issue.* And Whereas *it is provided by the ninety-first section of the said Act that it shall be lawful for any party to any suit in the Court who shall be dissatisfied with any verdict or judgment given, or any nonsuit entered against him, in any action which shall have been tried in the Court, to apply within one month next after such verdict or judgment given or nonsuit entered to any of the superior courts, or to any Judge of any of the said courts, for a Rule to show cause why a new trial of such action should not be granted, or nonsuit set aside, and a new trial granted, or a verdict entered, or judgment for the Plaintiff or Defendant, or a nonsuit entered, as the case may be, in the same manner as is customary in actions depending in the superior courts and tried at Nisi Prius before any Judge of Assize, by virtue of any record in any of the superior courts, and thereupon it shall be lawful for any of the superior courts, or any Judge of one of the superior courts, to grant such Rule and to hear and determine the merits of the same in like manner as in actions depending in the superior courts, and tried as aforesaid, and in case any of the superior courts, or any Judge of one of the superior courts, shall make the Rule absolute (which they are severally empowered to do upon such terms as they shall respectively think reasonable), then on delivery of an office copy of such*

Rule by the party who shall have obtained the same to the Registrar, all proceedings upon the former verdict, judgment, or nonsuit so obtained in the Court shall cease, and the said action shall proceed anew to a trial in the Court, or a verdict or judgment for the Plaintiff or Defendant, or a nonsuit, shall be entered, according to the tenor of such absolute Rule. PROVIDED ALWAYS *that it shall not be lawful for any party to move for any such Rule, nor shall any such Rule be of any force unless and until the party intending to apply for such Rule shall become bound by recognisance with two sufficient sureties, to be approved by the Registrar, in such reasonable sums as he shall deem sufficient for the security of the party against whom such Rule is to be applied for, that the party intending to apply for such Rule will in case such Rule is not granted, or in case it be granted and not made absolute, pay the debt, damages, and costs, or the damages and costs, or costs, as the case may be adjudged, or to be adjudged, and all costs incurred by the other party in showing cause against the Rule.* AND WHEREAS *the said*
hath requested . to be
and they the said have
agreed to become his sureties, and to become bound with him by recognisance as aforesaid, jointly and severally in the sum of fifty pounds sterling, for the security of the said
that the said
will in case such Rule is not granted, or in case it be granted and not made absolute, pay all costs incurred by the said
in showing cause against such Rule.

(Signed)

[*A*]

[*B*]

[*C*]

You do jointly and severally acknowledge to owe to the above-named the sum of fifty pounds, on condition that you will, in case the above-mentioned Rule is not granted, or in case it be granted

and not made absolute, pay all costs incurred by the said in showing cause against such Rule.

Are you content?

Taken and acknowledged conditionally this day of A.D. 190

Before me

Deputy-Registrar.

The following is a form of a Notice of Motion, which should of course be adapted to the particular circumstances of each case:—

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

On appeal from the Court of Record for the Hundred of Salford, in the County of Lancaster.

Between Plaintiff,

and

Defendant.

Take notice that [pursuant to leave granted at the trial in the Court below] this Honourable Court will be moved on the day of 190 , or as soon thereafter as the counsel can be heard, by counsel for the above-named Plaintiff that the determination and finding of the Judge of the above-named Court of Record for the Hundred of Salford, in the County of Lancaster, in point of law upon the trial of this cause on the day of 190 , that the Bill of Sale dated given by one to the above-named Plaintiff and mentioned and referred to in the Affidavit of the said Plaintiff filed on the day of 190 , in the said Court of Record for the Hundred of Salford, in the County of Lancaster, was void, and in directing a verdict for the Defendant with costs should be reversed and set aside and a verdict entered for the Plaintiff.

The following are the grounds of appeal:—

That the Judge erred in law in holding and finding that the said Bill of Sale was void, on the ground that the consideration for which the said Bill of Sale was given was uncertain, and was not stated so as to satisfy the requirements of the Bills of Sale Act (1878) Amendment Act 1882.

Dated this day of 190

Agents for

Manchester,

Solicitor for the above-named Plaintiff.

To the above-named Defendant and to Manchester, his solicitor, and to the Registrar of the said Court of Record for the Hundred of Salford, in the County of Lancaster.

The following is the form of an Order Dismissing an Appeal from a Judgment of the Salford Hundred Court:—

day of 190

In the High Court of Justice.

King's Bench Division.

In the matter of an action in the Court of Record for the Hundred of Salford, in the County of Lancaster.

Between Plaintiff,

and

Defendant.

Upon reading the Plaintiff's Notice of Motion dated the day of 190 , and the Judge's notes herein, and upon hearing counsel on both sides, it is ordered that the judgment obtained for the Defendant do stand, and this appeal be dismissed with costs to be paid by the said Plaintiff to the said Defendant or his solicitor, such costs, if necessary, to be taxed by one of the Masters of the Crown Office.

Mr. for the Plaintiff.

Mr. for the Defendant.

By the Court.

The notes under Order 58 of the Rules of the Supreme Court, in the "Annual Practice," deal with the grounds for appeal from a verdict.

CHAPTER XLVI.

Execution.

The practitioner is referred to Order 42 of the Rules of the Supreme Court, which is to be found fully set out with explanatory notes in the "Annual Practice" for the law and practice in regard to executions, as also Anderson's "Law of Execution."

Execution can be issued any time after final judgment is signed (provided there is no stay), and a judgment creditor may issue execution for his judgment debt alone immediately upon obtaining judgment, and may afterwards tax his costs and issue execution for them at the expiration of not less than eight days after the first Writ of Execution.

Sections 81, 82, and 83 of the Salford Hundred Court Act refer to executions, as also Rules 91 to 95 of the Rules of the Salford Hundred Court.

Before issuing a Writ of *Fieri Facias*, be careful to obtain from the plaintiff *written instructions* to issue the execution. Such instructions should contain the actual amount to be levied, and the exact address of the defendant.

Practical Directions.—Obtain printed form of precipe for Writ of *Fieri Facias*, thus:—

In the Salford Hundred Court.

Between *Plaintiff*,

and

Defendant.

Seal a Writ of Fieri Facias directed to the Head Bailiff of this Court to levy against
the sum of £ *and interest*

thereon at the rate of £4 per centum per annum from the day of 190

Judgment dated the day of 190

Solicitor for Plaintiff,

Street, Manchester.

Dated the day of 190

Claim £

The cause of action arose within the District.

and fill in the blanks.

Obtain also a form of Writ of *Fieri Facias*, thus:—

IN THE SALFORD HUNDRED COURT.

Between

Plaintiff,

and

Defendant.

EDWARD THE SEVENTH, *by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, Defender of the Faith, Emperor of India.*

To the Head Bailiff of our Court of Record for the Hundred of Salford, in the County of Lancaster, greeting, We command you that of the goods and chattels of

within the jurisdiction of our said Court you cause to be made pounds shillings and pence, and also interest thereon at the rate of £4 per centum per annum from the day of 190 , which said sum of money and interest were lately before us in our said Court, in a certain action wherein was or were Plaintiff and was or were Defendant by a judgment bearing date the day of 190 , adjudged to be paid by the said

to the

said

such sum and costs so far as regards the Defendant *to be payable out of her separate property and not otherwise, and that you have that money and interest before us in our said Court immediately after the execution hereof, to be paid to the said* *and in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution thereof, and have there then this writ.*

WITNESS, *The Right Honourable* OSBERT CECIL, *Earl of Sefton, High Steward of the said Court at Manchester, in the said Hundred, the* *day of* *190*

Levy £ *and costs of execution and also interest on £* *at £4 per centum per annum from the* *day of* *190* *until payment, besides Head Bailiff's fees, officer's fees, costs of levying, and all other legal incidental expenses.*

This Writ was issued by BRIEF, SONS & CO., *of 1, Princess Street, Manchester, solicitors for the said Plaintiff, who resides at*

The Defendant and resides at

In cases where anything has been levied under a Writ of *Fieri Facias*, a second writ should not be issued until the former writ has been returned.[1] For that purpose the following notice should be given to the Head Bailiff:—

JONES *v.* SMITH.—*File official return to execution issued 17th August 1903, for which one shilling, your fee, is herewith enclosed.*

The following is the form of such Second Writ of *Fieri Facias*:—

[1] Lee *v.* Dangar, 1892, 1 Q. B., 240.

EDWARD THE SEVENTH, *etc.*

To the Head Bailiff, etc.

WHEREAS *by our writ we lately commanded you that of the goods and chattels of*
you should cause to be made [*recite the former writ in the past tense to the words "and have there then this writ"*] *and you at a day now passed returned to us in our said Court that by virtue of the said writ you had caused to be made* [*recite the return to the end*]. *Thereupon we command you that of the goods and chattels of the said*
you cause to be made the sum of £ , residue of the sum of £ , with interest as aforesaid [*conclude as in previous form*].

To prepare this form correctly, an office copy of the previous Writ of *Fieri Facias* and the return thereto should be obtained from the Court.

Fill in general precipe with the words—

Office copy Fieri Facias, dated 17th August 1903, and return thereto.

Take this to the Court, and attend next day for same, paying fee.

Take care that the execution strictly pursues the judgment in the names of the parties, the amount of debt and costs, the date of the judgment, the amount actually to be levied, and the exact address of the defendant where the execution has to be levied. Indorse, also, the fixed sums for the execution. Take the execution and precipe to the Court, where the execution will be sealed and retained by the Court to be handed to the Head Bailiff, who will make out the necessary warrant. Attend at the Head Bailiff's office and give him full directions as to the execution of the warrant, but in no case give any written instructions beyond those indorsed upon the Writ of *Fieri Facias*. This precaution is necessary to prevent the solicitor being held personally responsible for anything done by the Head Bailiff or his officers acting under such instructions.

By the Borough and Local Courts of Record Act 1872, 35 and 36 Victoria, Cap. 86, Sec. 6, a Writ of *Fieri Facias* from the Salford Hundred Court can be executed anywhere in England and Wales upon judgments recovered in this Court, where the debt or damage does not exceed £20, EXCLUSIVE of costs, and a warrant thereon will be forwarded by the Head Bailiff to the Registrar of the County Court within the jurisdiction of which the judgment debtor may possess any goods or chattels.

The following is the section of the Act referred to:—

> 6. In all cases where final judgment shall have been obtained in any action brought in the Court wherein the debt or damage does not exceed £20, exclusive of costs, and also in all cases where any rule or order shall be made by the Judge for the payment of any sum of money, or any costs, charges, or expenses not exceeding the sum of £20, such Court shall be at liberty to send a writ or precept for the recovery of the same to the Registrar of any County Court within the jurisdiction of which the defendant may possess any goods or chattels; and the Registrar of such County Court shall stamp or seal the same, and thereupon the High Bailiff of such County Court shall execute the same in the same manner as if such writ or precept had been issued out of such County Court, and such High Bailiff shall take all the usual and proper fees thereupon, and shall make a return of what he shall have done thereunder to the Bailiff or Serjeant-at-Mace of the Court; and in all matters done under such writ or precept, or in relation thereto, such High Bailiff shall be under the direction and control of the Judge of the County Court of which he is High Bailiff, as if such writ or precept had issued out of such County Court: Provided always, that the costs of more than one writ, precept, or warrant shall not be allowed against the execution debtor unless by order of the Judge of the said Court.

In such cases there must be paid to the Head Bailiff one shilling and sixpence in the pound upon the amount to be

levied, which sum is forwarded by him to the Registrar of the County Court issuing the warrant.

For form of *Fieri Facias* against a Married Woman, see Appendix H, No. 1A, in the "Annual Practice."

For form of *Fieri Facias* upon an Order for Costs, see Appendix H, No. 2, in the "Annual Practice."

In all cases where the debt or damage exceeds £20, exclusive of costs, the judgment will have to be removed into the King's Bench Division of the High Court of Justice, for the purpose of obtaining execution out of the Hundred of Salford.

Renewal of Writ of Execution.

Under Order 42, Rule 20, of the Rules of the Supreme Court, a Writ of Execution, if unexecuted, shall remain in force for one year only, but may at any time before its expiration, by leave of the Registrar, be renewed.

It is only usual to take this course where priority of date is important.

The order is obtained *ex parte* on affidavit stating the reason why the writ has not been executed.

Under Order 52, Rule 14, the order need not be drawn up.

The following is the notice to the Head Bailiff:—

Take notice that the Writ of Fieri Facias herein, dated the day of 190 , has, by order of the Registrar dated the day of 190 , been renewed for one year from the day of 190

Dated, etc.

This notice must be signed by the solicitor and sealed with the seal of the Court, and delivered to the Head Bailiff.

It is not usual for the Head Bailiff to return writs directed to him, except Writs of *Elegit*, unless required so to do; but

such course is necessary where it is desired to issue a summons under the Debtors Act 1869, in which case a mere notice to that effect to the Head Bailiff, with the payment of one shilling, will suffice.

Under Order 52, Rule 11, of the Rules of the Supreme Court, an Order for Committal may be applied for against the Head Bailiff should he not return any writ after notice so to do.

The following is the scale of fees to be indorsed on a Writ of *Fieri Facias* :—

		Solicitor's Fee. One Deft.	Two Defts.
Claim not exceeding	£5	5/8	6/8
,, ,,	£20	11/-	13/-
,, ,,	£50	17/-	19/-

Execution Against Partners.

Order 48A of the Rules of the Supreme Court should be very carefully perused in dealing with this subject.

Order 48A, Rule 8, deals with execution of a judgment against a firm, for which see the "Annual Practice," together with the notes thereto.

Section 23 of the Partnership Act 1890 reads thus :—

> 23. (1) After the commencement of this Act, a Writ of Execution shall not issue against any partnership property except on a judgment against the firm.
>
> (2) The High Court, or a Judge thereof, or the Chancery Court of the County Palatine of Lancaster, or a County Court, may, on the application by summons of any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits (whether already declared or accruing), and of any other money which may be coming to him in respect of the partnership, and direct

all accounts and inquiries, and give all other orders and directions which might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or which the circumstances of the case may require.

It will thus be seen that this section does not extend to the Salford Hundred Court, and no order charging a partner's interest can be made in the Salford Hundred Court. Where such charging order is desired, the judgment should first be removed into the High Court. Order 46, Rule 1A, of the Rules of the Supreme Court deals with charging a partner's interest in the partnership.

Sale of Execution Debtor's Goods by Private Treaty.

Order 43, Rules 8 to 15, of the Rules of the Supreme Court should be carefully perused where it is desired to obtain an order for sale of an execution debtor's goods by private treaty instead of by public auction.

Sec. 145 of the Bankruptcy Act 1883 and Sec. 12 of the Bankruptcy Act 1890 must also be considered.

The following is a form of Summons for the Head Bailiff to Sell by Private Contract:—

. . . . . *for an order that the Head Bailiff be at liberty to sell the goods and chattels seized by him under the Writ of Fieri Facias in this action by private contract upon the ground that* [*here state shortly the grounds of the application*].

Dated, etc. [*conclude as usual*].

[*If the applicant is an Execution Creditor, address the summons to and serve it upon the Head Bailiff and every person named in the Head Bailiff's list.*]

[*If the applicant is the Execution Debtor, address the summons to and serve it upon the Execution Creditor at whose instance the execution has been levied under which the sale is intended to be made, the Head Bailiff, and every other person named in the Head Bailiff's list.*]

The following is the usual form of the order:—

Upon hearing the solicitors for

It is ordered that the Head Bailiff of be at liberty to sell the goods and chattels seized by him under the Writ of Fieri Facias in this action by private contract, and that [etc., adding any directions given as to costs].

Dated the day of 190

Under Order 42, Rules 22 and 23, of the Rules of the Supreme Court, where six years have elapsed since the date of the judgment, or where any change has taken place by death, etc., in the parties entitled or liable to execution, leave to issue execution must be obtained. This may be granted by the Registrar *ex parte* on affidavit.

The following is a form of the affidavit, which may be sworn by the plaintiff's solicitor:—

1. On the day of the above-named Plaintiff recovered judgment in this Honourable Court in this action against the above-named Defendant for [amount of judgment, debt, and costs].

2. [State how far judgment satisfied and exact amount still due.]

3. [State facts showing why judgment did not satisfy, and if the judgment is twelve years old the affidavit must also state payment of amount on account, or a written acknowledgment of it, within twelve years.]

4. [State any change, if any, in the parties entitled or liable to execution.]

5. The above-named Plaintiff is entitled to have execution of the said judgment, and to issue execution thereon for the sum of £ : : , as I am advised and believe.

The following is the form of the order:—

Upon hearing John Law *for the Execution Creditor, and upon reading the affidavit of the said* John Law, *I do order that the said [Judgment Creditor] be at liberty to issue execution against the said [Judgment Debtor] on the judgment obtained in this action, dated the day of 190*

CHAPTER XLVII.

Interpleader by Head Bailiff.

It occasionally happens that when the Head Bailiff has seized goods under a Writ of *Fieri Facias*, a claim is set up to the ownership of them by some person, who gives the Head Bailiff notice that the same, or some portion thereof, belong to him, and not to the defendant. If in such case the Head Bailiff be doubtful to whom the goods really belong, he may, for his own protection, apply to the Court for a summons, calling upon the plaintiff, commonly called "the execution creditor," and the claimant to the goods, to appear before the Court to state the nature and particulars of such claim, in order that the Registrar may make such order as he lawfully can.

The following is the section of the Salford Hundred Court of Record Act 1868 dealing specially with the relief of the Head Bailiff by interpleader.

> Sec. 112. When any claim shall be made to or in respect of any goods or chattels taken or intended to be taken in execution under the process of the Court, or to or in respect of the proceeds or value thereof, by any landlord for rent, or by any person not being the party against whom such process has issued, it shall be lawful for the Registrar, upon application of the Head Bailiff or any of his officers made before or after the return of such process, and as well before as after any action brought against such Head Bailiff or any of his officers, to issue a summons calling before the Court as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in any of Her Majesty's superior courts, or the Court of Common Pleas at *Lancaster*, or in any local

or inferior Court of Record, in respect of such claim, shall be stayed; and the court in which such action shall have been brought, or any Judge thereof, on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons; and the Registrar shall thereupon exercise, for the adjustment of such claims and the relief and protection of the Head Bailiff or any of his officers, all or any of the powers and authorities hereinbefore contained, and make such rules and decisions as shall appear to be just, according to the circumstances of the case, and the costs of all such proceedings shall be in the discretion of the Registrar; and the Head Bailiff or his officers shall retain possession of such goods and chattels so taken in execution as aforesaid until the Court shall have so decided as aforesaid, or until it shall otherwise order, unless the party claiming such goods or chattels shall deposit with the Head Bailiff the amount in money for which the same were taken or intended to be taken in execution, and all costs and expenses of taking and keeping the same, and such sum as the Registrar shall fix to answer the costs of and incident to interpleading.

The Registrar has the power to make the following orders :—

1. An order to withdraw from possession by the direction of the execution creditor.

2. An order for an issue to be tried before the Judge and a jury at the ensuing sitting of the Court.

3. Under Order 57, Rule 8, of the Rules of the Supreme Court, the Registrar may, with the consent of both claimants, or on the request of any claimant, if, having regard to the value of the subject matter in dispute, it seems desirable so to do, dispose of the merits of the claim at an adjourned hearing of the summons, and decide the same in a summary manner, and on such terms as may be just.

Order 57 of the Rules of the Supreme Court deals specially with interpleader proceedings.

The Head Bailiff cannot apply to the Court unless an actual claim to the goods has been made, and he must apply in a reasonable time after receiving notice of the adverse claim. The Registrar grants a summons to the Head Bailiff, copies of which are served upon the execution creditor and the claimant.

The following is a copy of such summons :—

> *Let the Plaintiff and the Claimant or their respective solicitors attend the Registrar, at his office, Northern Assurance Buildings, Albert Square [Princess Street], in the City of Manchester, on the day of 190 , at eleven o'clock in the forenoon, to state the nature and particulars of their respective claims to the goods and chattels seized by the Head Bailiff of this Court, under the Writ of Fieri Facias issued in this action, and maintain or relinquish the same; and to show cause why the Registrar should not make such order respecting the same as to him shall seem fit, pursuant to the provisions of the Salford Hundred Court of Record Act 1868 in this behalf.*

All parties attend before the Registrar upon the hearing of the summons.

The practitioner concerned for the claimant must prepare an affidavit by the claimant, giving a fair statement of the claim of the claimant, and if the claim is not made to the whole of the goods seized, a schedule of the goods claimed should be annexed to the affidavit, unless the document under which the claim is made contains a list of the goods claimed. A mere statement in the affidavit that the goods belong to the claimant is not sufficient. It must show when and how the goods belong to the claimant. The solicitor to the execution creditor should very carefully read the affidavit, and before taking an issue he should obtain his client's instructions in writing to that effect, and for that purpose he

should apply for an adjournment of the summons until the following day.

Where the amount in dispute is small, both parties should agree to the summons being disposed of by the Registrar. In such case the Registrar adjourns the summons for a few days, giving ample time for both parties to get their evidence ready, and in the meantime the bailiff remains in possession of the goods seized. Both parties should have their evidence prepared in as careful a manner as if the trial were at the Assize Courts.

The following are copies of orders where the matter is disposed of by the Registrar:—

The day of 190

Upon hearing the Head Bailiff of this Court, Mr.
solicitor for the
Execution Plaintiff, Mr.
solicitor for
the Claimant, and upon reading the affidavit of
the Claimant,

I do order that the said Head Bailiff do forthwith withdraw from possession of and deliver up to the said Claimant such of the goods, chattels, and effects seized by him under and by virtue of the Writ of Fieri Facias issued herein as are claimed by the said Claimant, and that no action shall be brought against the said Head Bailiff or his officers, or any of them, for or in respect of such seizure, or the taking away or detention of the said goods, chattels, and effects, or any of them, and that the said Execution Plaintiff do pay to the said Head Bailiff £ : : his fees.

The day of 190

Upon hearing the Head Bailiff of this Court, Mr.
solicitor for the
Execution Plaintiff, Mr.

solicitor for
the Claimant, and upon reading the affidavit of

I do order that the claim made by the said Claimant to the goods, chattels, and effects seized by the said Head Bailiff under and by virtue of the Writ of Fieri Facias issued herein be and the same is hereby barred.

The day of 190

The Claimant
and
Execution Plaintiff
having by his solicitor requested and consented that I should dispose of the merits of the claim made by the said Claimant and determine the same in a summary manner, and I having heard the said Claimant and Execution Creditor by their respective solicitors, and having read the affidavit of and the
affidavit of
and having heard the viva voce evidence produced before me, I do order that the claim made by the said Claimant to the goods, chattels, and effects seized by the said Head Bailiff under and by virtue of the Writ of Fieri Facias issued herein be and the same is hereby barred, and that the said Claimant do pay to the Execution Creditor his costs of and occasioned by this application, such costs to be taxed, and to include the costs and expenses of retaining possession of the said goods from the day of to the day of the date hereof.

The day of 190

The Claimant
and
Execution Creditor
having by their respective solicitors requested and consented that I should dispose of the merits of the claim made by the

said Claimant and determine the same in a summary manner, and I having heard the evidence produced before me by and on behalf of
and having read the affidavit of
I do order that the said Head Bailiff do forthwith withdraw from possession of and deliver up to the said Claimant the goods, chattels, and effects seized by him under and by virtue of the Writ of Fieri Facias issued herein, and that no action shall be brought against the said Head Bailiff or his officers, or any of them, for or in respect of such seizure, taking away, or detention of such goods, chattels, and effects, or any of them, and that the said Execution Creditor do pay to the said Claimant his costs of and incidental to these proceedings, to be taxed, and to include the Head Bailiff's fees.

If one of the parties decide to have the issue tried before a Judge and Jury at the Assize Courts, an order to that effect is indorsed by the Registrar upon the back of the summons, and the claimant is ordered to pay into court a sum sufficient to satisfy the levy and also the probable costs of the issue, or he may be ordered to pay into court the value of the goods claimed by him. In case the court day is very near the claimant should ask that the bailiff be allowed to remain in possession of the goods pending the trial of the issue.

The order is drawn up and served by the Head Bailiff.

The following is a form of such order:—

The day of 190

Upon hearing the Head Bailiff of this Court, Mr. solicitor for the Execution Creditor, and Mr. solicitor for the Claimant, and upon reading the affidavit of

I do order that upon payment of the sum of pounds into Court by the said Claimant, within days from this date, to abide further order herein,

and upon payment to the said Head Bailiff of the possession

money from this date the said Head Bailiff do withdraw from the possession of the goods seized by him under the Writ of Fieri Facias herein and claimed by the Claimant. And I further order that unless such payments be made within the time aforesaid, the said Head Bailiff do proceed to sell the said goods, and do pay the proceeds of the sale, after deducting the expenses thereof, and the possession money from this date, into Court in this cause to abide further order herein. And I further order that the parties proceed to the trial of an issue in this Court in which the said Claimant shall be the Plaintiff, and the said Execution Creditor shall be the Defendant, and that the question to be tried shall be whether at the time of the seizure by the Head Bailiff the goods, chattels, and effects mentioned and referred to in the said affidavit of the said
and claimed by him, were the property of the said Claimant, as against the said Execution Creditor. And I further order that such issue shall be prepared and delivered by the Plaintiff therein within days from this date, and shall be returned by the Defendant therein within four days, and shall be entered for trial and be tried at the next sitting of this Court for the trial of issues to be holden on the day of 190 . And I further order that no action shall be brought against the said Head Bailiff for the seizure of the said goods.

The day of 190

Upon hearing the Head Bailiff of this Court, Mr. the solicitor for the Execution Creditor, and Mr. the solicitor for the Claimant, and upon reading the affidavit of the said and the paper writing thereto annexed, and the affidavit of the said

I do order that the parties proceed to the trial of an issue in this Court in which the said shall be Plaintiff, and the said shall be Defendant; and that the question to be tried shall be whether at the time of

the seizure thereof by the Head Bailiff under the Writ of Fieri Facias issued herein the goods, chattels, and effects mentioned and referred to in the said affidavit of the said as claimed by him, and seized by the said Head Bailiff under the said Writ of Fieri Facias, were the property of the said Claimant as against the said Execution Creditor. And I do further order that such issue shall be prepared and delivered by the Plaintiff therein on or before the day of and be returned by the Defendant therein within four days, and shall be entered for trial, and be tried at the next sitting of this Court for the trial of issues, to be holden on the day of And I do further order that the said Head Bailiff or his officers retain possession of the said goods, chattels, and effects until after the trial of the said issue, unless the said Claimant shall, in lieu of the said goods, chattels, and effects, deposit the sum of pounds shillings and pence in the hands of the said Head Bailiff to abide further order herein. And this Court doth reserve the question of costs and all further questions until after the trial of the said issue. And I do further order that no action shall be brought against the said Head Bailiff for the seizure of the said goods.

For further forms of Interpleader Orders, see Appendix K, Nos. 50 to 56A, in the "Annual Practice."

The claimant should at once prepare a draft Interpleader Issue somewhat in the following form:—

INTERPLEADER ISSUE.

Delivered the day of 190 by JAMES LEX, *of 1, Albert Square, in the City of Manchester, solicitor for the above-named Plaintiff (the claimant to the goods), pursuant to an Interpleader Order of the Registrar of this Court, dated the day of 190 . John Smith affirms and John Creditor denies that certain goods and chattels, to wit, the household furniture, goods, chattels, and effects referred to in the affidavit of the above-*

named John Smith, filed in this Honourable Court on the day of 190 , and on the day of 190 seized in execution by the Head Bailiff of this Court, under a Writ of Fieri Facias dated the day of 190 , and issued out of this Court, directed to the said Head Bailiff, for the having of execution of a judgment of this Court recovered by the said John Creditor in an action at his suit against John Debtor, were, at the time of the said seizure, the property of the said John Smith, as against the said John Creditor.

And it has been ordered by the said Registrar that the said question should be entered for trial, and be tried at the next sitting of this Court, to be holden on the day of 190

Therefore let the same be tried accordingly.

The draft issue must be forwarded to the solicitor to the execution creditor (the defendant named in this issue), who signifies his approval thereto in writing at the end of the issue, and returns the same to the solicitor for the claimant, having previously made a copy thereof for his own use.

The issue is then entered for trial in the same way as an ordinary action, and proceeds in an exactly similar manner at the trial. The party who succeeds should ask the Judge to order the money in Court to be paid out to him. If this is not done a summons must be taken out:—

To show cause why the sum of £ : : paid into Court herein on the day of 190 , under the Interpleader Order herein, dated the day of 190 , should not be paid out to the Claimant, or to John Lex, *his solicitor* [*the Execution Creditor, or to* John Law, *his solicitor*], *a verdict having been given in his favour; and why the should not pay to the the costs of and incidental to this application.*

An order is made as a matter of course, and the money is paid out upon the receipt of the solicitor being filed, and

without the necessity of a signed authority for that purpose by the client, but the costs of the application will not be granted if the order could have been obtained from the Judge.

The judgment is made out in the name of the Interpleader Issue, as also the costs.

Where the draft issue has not been returned by the solicitor to the execution creditor within the time named in the Interpleader Order, the solicitor to the claimant should take out the following summons:—

> *To show cause why the Interpleader Order herein, dated the day of should not be varied or set aside, on the ground that the Execution Creditor has not returned the Draft Issue as directed by the said order, and (if so) why the money paid into Court by the Claimant under the said order should not be returned to him or to his solicitor, and why the Execution Creditor should not pay to the Claimant all the costs of the interpleader proceedings, including the costs of this application, to be taxed.*

Upon an order being made, the costs should be taxed at once, whereupon execution can issue upon the Registrar's Order when his allocatur has been signed.

CHAPTER XLVIII.

The Debtors Act 1869.

Where final judgment has been obtained against a defendant, an order for payment by him of the debt and costs, by instalments, may be obtained from the Court. This course of procedure is useful where the defendant has no goods whereon an execution can be levied.

Section 5 of the Debtors Act 1869 (32 and 33 Victoria, Chapter 62) gives the authority to the Court.

It reads thus :—

> Any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt, or instalment of any debt, due from him in pursuance of any order or judgment of that or any other competent court.

The following Rules of the Salford Hundred Court in reference to such orders were made in 1880 :—

> 1. No Order of Commitment under "The Debtors Act 1869" shall be made unless a summons, hereinafter called a "Judgment Summons," shall have been personally served upon the judgment debtor.
>
> 2. Every Judgment Summons must be served within the jurisdiction of this Court.
>
> 3. Where a party desires to enforce by commitment in this Court a judgment or order of any competent court, he shall obtain from such court an office copy of the judgment or order he desires so to enforce, and file the same with the Registrar of this Court on applying for such Judgment Summons.

4. Every Judgment Summons shall be according to the form in the schedule, and be issued not less than ten clear days and be served not less than six clear days before the day on which the judgment debtor is required to appear, except in the case provided for by the next following rule.

5. Where the person applying for the Judgment Summons can satisfy the Judge at the hearing that the defendant was keeping out of the way to avoid service, service upon the party at any time before the time appointed for the appearance of such party shall be sufficient.

6. A Judgment Summons may issue without leave of the Court.

7. The hearing of a Judgment Summons may be adjourned from time to time.

8. Any witnesses may be summoned to prove the means of the judgment debtor by an order, to be issued by the Registrar for that purpose.

9. At the hearing of any Judgment Summons, the person who has applied therefor shall produce a return from the proper officer of any execution against the goods of the judgment debtor which may have been issued.

10. An Order of Commitment under "The Debtors Act 1869" shall be according to the form in the schedule, and shall, on whatever day it may be issued, bear date on the day on which the Order for Commitment was made, and shall continue in force for one year from such date and no longer.

11. All costs incurred by the plaintiff in endeavouring to procure or enforce an order or judgment shall be deemed to be due in pursuance of such order or judgment under Section 5 of "The Debtors Act 1869," unless the Judge shall otherwise order.

12. All Orders of Commitment may be executed in any part of England and Wales, provided the same, if executed

out of the jurisdiction of the Court, shall be previously signed or indorsed in manner provided by the provisions of the Act of the 8th and 9th Victoria, Chapter 127.

(Signed) HENRY W. WEST,
Judge of the Court of Record for the Hundred of Salford, in the County of Lancaster.

I approve of the above Rules to come into operation on Saturday, the 1st day of May 1880.

(Signed) CAIRNS, C.

Rule 361 of the General Rules under the Bankruptcy Acts 1883 and 1890 reads thus :—

> The County Court Rules for the time being in force as to the committal of judgment debtors shall, with any necessary modifications, apply to all courts exercising jurisdiction under Section 5 of "The Debtors Act 1869," provided that any reference therein to "The Bankruptcy Act 1869" shall be deemed to extend also to the corresponding provisions of "The Bankruptcy Act 1883."

It would appear the Rules of the Salford Hundred Court set out above are therefore superseded, in so far as they are affected by the County Court Rules.

The County Court Rules will be found under Order 25 of the County Court Rules 1889, Rules 13 to 38ç.

On and after Saturday, the 2nd day of February 1884, all summonses under the above Act were made returnable in the first instance before the Registrar.

All such applications must be supported by affidavit, or by the previous examination of the debtor, or of any other person, under Order 42, Rule 32, of the Rules of the Supreme Court.

The summonses will be made returnable on a Thursday, and heard at the Registrar's Office, Northern Assurance Buildings, Princess Street, Manchester, at the time appointed.

Practical Directions.—Prepare an affidavit by the plaintiff, or by some one who can swear to the statements contained therein, in the following form :—

I, *of*
in the County of *the above-named Plaintiff, make oath and say :—*

1. That on the *day of* *190* *the above-named Plaintiff obtained a judgment against the above-named Defendant for the sum of £* *debt and £* *costs.*

2. That there is now due on the said judgment the sum of £

3. That the Defendant resides [*or carries on his business*] *at* *and is a*

Where judgment has been obtained against defendants in the name of their firm, the affidavit should be as follows :—

[*Paragraphs 1 and 2 as above.*]

Paragraph 3. I am informed and believe [*the sources of information and grounds of belief must be stated*] *that G. H., of , was, at the date of the judgment, a partner in the said firm of C. D. & Co. (or the sole member of the said firm of C. D. & Co.).*

Paragraph 4. I verily believe that the said G. H. is well able to pay the sum aforesaid now due and payable under the said judgment.

Sworn, etc.

Prepare a Form of Application in the following form, and obtain the plaintiff's signature thereto:—

Between *Plaintiff*
of *and*
Defendant
of

I apply for the issue of a Judgment Summons against the said Defendant in respect of a judgment of the above Court, and I undertake to prove, to the satisfaction of the Court at the hearing, that the Judgment Debtor has or has had since the date of the judgment the means to pay the sum in respect of which he has made default, and that he has refused or neglected or refuses or neglects to pay the said sum.

I am aware that if I do not prove the same accordingly, that I shall have to pay the costs of this summons.

Debt .....£ : :
Costs.....£ : : *Judgment Creditor.*

£ : :

Amount due £ : :

Judgment signed the *day of* *190*

This application may be signed by the plaintiff's solicitor.

File the affidavit and application at the Court, whereupon a summons will be issued and forwarded to the Head Bailiff for service upon the judgment debtor.

The following is the form of the summons:—

Whereas the Plaintiff obtained a judgment against you the Defendant in this Court on the day of 190 , for the sum of £ and there is now due and payable upon the said judgment the sum of £

You are therefore hereby summoned to appear personally at the office of the Registrar of this Court, at Northern Assurance Buildings, Albert Square [Princess Street], in the City of Manchester, on Thursday, the day of 190 , at the hour of ten o'clock in the forenoon, to be examined on oath by the Court touching the means you have, or have had since the date of the judgment, to pay the said sum, in payment of which you have made default; and also to show cause why you should not be committed to prison for such default.

Dated this *day of* *190*

Registrar of the Court.

Amount of judgment or order remaining due.. £ : :
Cost of this summons ... ... £ : :

Total sum due ... ... £ : :

A sealed copy of this summons must be served personally upon the defendant, within the jurisdiction of the Court. The practitioner should attend at the offices of the Head Bailiff within seven days of the issue of the summons, and enquire whether the same has been personally served upon the defendant. If it has not been served, the solicitor should ask for the summons from the Head Bailiff's office and cause it to be served personally upon the defendant. The solicitor or the plaintiff may have much better opportunities of seeing the defendant than a bailiff. An affidavit of the service (which can be obtained at the office of the Head Bailiff) must be filed.

Upon the hearing of the summons before the Registrar the applicant must have an official return from the Head Bailiff of any Writ of Execution issued against the defendant in the action. The Registrar will read the affidavit filed in support of the summons, and, if necessary, take the evidence of the parties *viva voce*, on oath, and will then make such order as he deems expedient under the circumstances of the case.

The following is a form of the order:—

Whereas the Plaintiff obtained a judgment against the Defendant in this Court on the day of 190 for the sum of £ ; and there is now due and payable upon the said judgment the sum of £

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court on the day of 190 to be examined on oath touching the means he had then, or had had since the date of the judgment, to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant.

It is ordered that the Defendant do pay the amount still due on the said judgment, and the

costs of the said summons and its hearing, as stated at the foot of this order, by instalments, as follows :—

the first payment to be made on the day of 190

Given under the seal of this Court, this day of 190

Registrar of the Court.

Amount on judgment or order remaining due	£	:	:
Costs of Judgment Summons and its hearing	£	:	:
	£	:	:

A copy of the order must be served personally upon the defendant, or left at the defendant's residence.

If the defendant makes default in payment of his instalment a second application should be prepared and signed by the plaintiff showing the amount of the instalments in arrear. No affidavit in support of the application is required, and upon filing the application a summons in the following form is issued, and forwarded by the Court to the Head Bailiff for service.

The same course of procedure should be followed as in the first summons, except that no Affidavit in Support is required. The following is a form of the summons :—

Whereas the Plaintiff obtained an order against you, the Defendant, in this Court, on the day of 190 for the sum of £ and there is now due and payable upon the said order the sum of £

You are therefore hereby summoned to appear personally before the Court, at the Assize Courts, Strangeways, in the City of Manchester, on day, the day of 190 at the hour of ten o'clock in the forenoon, to be examined on oath by the Court touching the means you have, or have had since the date of the order, to pay the said sum, in payment of which you have made default; and also

to show cause why you should not be committed to prison for such default.

Dated this day of 190

Registrar of the Court.

Amount of order remaining due	£	:	:
Costs of this summons	£	:	:
Total sum due	£	:	:

The summons for payment by the defendants of the instalments is made returnable before the Judge at the Assize Courts, when the plaintiff must be prepared with full evidence of the defendant's means and his capability to pay. The Judge either dismisses the summons or makes an Order for Committal.

The following is the form of the Order for Committal:—

To the Head Bailiff of His Majesty's Court of Record for the Hundred of Salford, in the County of Lancaster, and Joseph George Ireland, *his Bailiff, and all Constables and Peace Officers within the jurisdiction of the said Court, and to the Governor of His Majesty's Gaol, Strangeways, Manchester, in the said Hundred.*

Whereas the Plaintiff obtained an order against the Defendant in this Court, on the day of 190 for the sum of £ : : and there is now due and payable upon the said order the sum of

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court on the day of 190 , to be examined on oath touching the means he had then, or had had since the date of the order, to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant.

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the Defendant now has [or has had since the date of the order] the means to pay the sum in respect of which he made default as aforesaid, or an instalment or instalments thereof as ordered by the said order, and has refused or neglected to pay the same.

Now, therefore, it is ordered that the Defendant shall be committed to prison for days, unless he shall sooner pay the sums in payment of which he has so made default, together with the prescribed costs hereinafter mentioned, or shall file such affidavit as is mentioned in Order 25, Rule 30, of the County Court Rules 1889.

These are, therefore, to require you, the said Head Bailiff, and others, to take the Defendant and to deliver him to the Governor or Keeper of His Majesty's Gaol, Strangeways aforesaid, and you, the said Governor or Keeper, to receive the Defendant and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the Seal of the Court this day of 190

Judge of the Court.

Amount of judgment or order remaining due...	£	:	:
Cost of Judgment Summons, Order, and Head Bailiff's fees on arrest.....	£	:	:
Amount upon the payment of which the prisoner is to be discharged.....	£	:	:

This order remains in force but for one year from the date hereof, unless such time is extended under Order 25, Rule 33, of the County Court Rules 1889.

The Order for Committal is not put in force until after the expiration of fourteen days at least from the date of the order, to give the defendant an opportunity of paying the amount

due and the costs of the order. If it is necessary to enforce the Order for Committal, write out an authority from the plaintiff to the Head Bailiff, obtain the plaintiff's signature thereto, take the same to the office of the Head Bailiff, and give him full instructions where to find the defendant.

Show Cause Summons against Defendant Residing Outside the Jurisdiction.

Where it is desired to issue a summons under the Debtors Act 1869 against a judgment debtor who resides outside the jurisdiction of the court, the procedure is as follows:—

Practical Directions.—Attend the Court and obtain an office copy of the judgment. Prepare an affidavit according to Form 51 of the County Court Forms, to be found in "The Annual County Courts' Practice." Forward the office copy judgment and the affidavit to the County Court of the district in which the judgment debtor resides, and also a form of application for issue of Judgment Summons (copy of which can be obtained from any local County Court), together with the usual County Court fees for Judgment Summonses, whereupon the County Court will issue a summons and give you notice of the date of hearing.

CHAPTER XLIX.

Removal of Judgment into the High Court.

For Purposes of Execution where Claim, Exclusive of Costs, Exceeds £20.

By Rule 97 of the Rules of the Salford Hundred Court, no Writ of Execution can be executed except within the jurisdiction of the Court. Now under Section 6 of the Borough and Local Courts of Record Act 1872, where the claim, exclusive of costs, does not exceed £20, and where the execution debtor resides outside the jurisdiction of the Court, executions can be levied by the County Court officials of the district in which the debtor has goods whereon to levy.

But where the defendant resides outside the jurisdiction of the Court, and the claim, exclusive of costs, exceeds £20, it will be necessary to remove the judgment into the High Court before an execution can issue against the defendant.

Section 88 of the Salford Hundred Court of Record Act authorises the removal of judgments into the High Court. It reads as follows:—

> Sec. 88. In all cases where final judgment shall be obtained in any suit brought in the Court, and also in all cases where any rule or order shall be made by the Judge for the payment of any sum of money, or any costs, charges, or expenses, it shall be lawful for any Judge of any of the superior courts, either in term or vacation, upon the application of any person entitled to the benefit of such judgment, rule, or order, and upon the production of such judgment, rule, or order under the seal of the Court and signature of the proper officer, to direct such judgment, rule, or order to be removed into the superior court, and thereupon such judgment, rule, or order shall be of the same effect as a judgment recovered in or a rule or order made by such superior court, and all proceedings shall and may be immediately

had and taken thereupon, or by reason or in consequence thereof, as if such judgment so recovered or rule or order so made had been originally recovered in or made by the superior court; and all the reasonable costs and charges of such application and removal shall be recovered in like manner as if the same were part of such judgment, rule, or order.

Practical Directions.—Prepare an affidavit to the following effect:—

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

I, of in the County of Lancaster, solicitor, make oath and say as follows:—

1. I have been employed by to make application on behalf of the said for the removal into the King's Bench Division of the High Court of Justice of a judgment obtained by the said on the day of 190 , against one in the Court of Record for the Hundred of Salford, in the County of Lancaster, in an action therein, in which the said was the Plaintiff, and the said was the Defendant, and by which judgment the said recovered against the said the sum of pounds shillings and pence for debt, and pounds shillings and pence for costs, making in the whole pounds shillings and pence.

2. The said judgment is in full force and unsatisfied to the amount of pounds shillings and pence.

3. The said Court of Record for the Hundred of Salford, in the County of Lancaster, is an inferior Court of Record.

4. The said resides at in the County of out of the jurisdiction of the Court of Record for the Hundred of Salford, and to the best

of my knowledge, information, and belief, he has no goods whatever within the jurisdiction of the said Court whereon an execution can be levied.

Sworn, etc.

Obtain an office copy of the judgment.

Fill up the following form :—

I hereby request the loan of the original judgment in this action for the purpose of an application to remove the same into the King's Bench Division in the High Court of Justice, and I undertake either to return such judgment, or to obtain an order for its removal, as aforesaid, within fourteen days from the date hereof.

Attend the Court with this form duly dated and signed, whereupon the original judgment will be handed to you, and the office copy judgment retained by the Court.

Forward the affidavit and the original judgment to your London agent, and instruct him to obtain an order transferring the judgment of the Salford Hundred Court into the King's Bench Division of the High Court, and to issue a Writ of *Fieri Facias* thereon, telling him the exact amount of the levy and the correct address of the defendant.

The costs allowed on the Order Transferring the Judgment are £2. 2*s*.

The London agent must forward an office copy of the Order Transferring the Judgment, which must at once be lodged in the Salford Hundred Court.

Equitable Receiver.

The Salford Hundred Court has no procedure for the appointment of a receiver of a judgment debtor's equitable property. In this case, also, it will be necessary to remove the judgment into the High Court.

Practical Directions.—Fill up the following form :—

I hereby request the loan of the original judgment in this action for the purpose of an application to remove the same

into the Manchester District Registry of the King's Bench Division of the High Court of Justice, and I undertake either to return such judgment, or to obtain an order for its removal as aforesaid within fourteen days from the date hereof.

Obtain an office copy of the judgment.

Attend the Court with this form duly dated and signed, whereupon the original judgment will be handed to you, and the office copy judgment retained by the Court.

Prepare an affidavit in the following form:—

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

I, of in the County of solicitor, make oath and say as follows:—

1. I desire to make application on behalf of for the removal into the Manchester District Registry of the above Division of this Honourable Court for the purposes of execution of a Judgment obtained by the said against one and entered in the Court of Record for the Hundred of Salford, in the County of Lancaster, otherwise properly described as "The Salford Hundred Court," in an action therein in which the said was the Plaintiff, and the said was the Defendant, and by which said judgment the said recovered against the said the sum of £ for debt and £ for costs of suit, making together in the aggregate the sum of £

2. The paper writing now produced and shown to me at the time of swearing this my affidavit, and marked "A," is the original judgment of the said Salford Hundred Court, sealed with the proper seal and signed by the proper officer thereof.

3. The said judgment is in full force, and there is still due and owing thereon the sum of £

4. The said Salford Hundred Court is an inferior Court of Record.

5. The said Defendant
has no goods or chattels upon which execution can be levied, nor is he entitled to any land or hereditaments or any other property against which any Writ of Elegit, Fieri Facias, or other process of execution can be issued for the purpose of obtaining payment of the said judgment debt and costs, or any part thereof.

6. [*Insert here the full particulars of the property and the Defendant's interest therein.*]

7. Application is now made for a transfer of the said judgment for the purpose of obtaining the appointment of an equitable receiver in the Manchester District Registry of this Honourable Court, by reason of the said Salford Hundred Court having no jurisdiction to appoint an equitable receiver in any action in the said Salford Hundred Court.

8. The said Plaintiff and the said
reside and the said properties mentioned in the sixth paragraph of this affidavit are situate within the district attached to the Manchester District Registry of this Honourable Court.

Sworn, etc.

Forward the affidavit and judgment to your London agent, sending him also copies of same for reference by him.

He will obtain an order in the following form:—

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

Master in Chambers.

In the matter of an action in the Salford Hundred Court between

Plaintiff,

and

Defendant.

Upon reading the judgment in the above action, and upon reading the affidavit of
filed the day of 190 , it is ordered that

the judgment herein, dated the day of 190 , for the sum of £ debt and £ costs, be removed into the Manchester District Registry of the King's Bench Division of His Majesty's High Court of Justice, pursuant to the statute in that case made, and that the Plaintiff do have £2. 2s. costs of and relating to the removal.

The London agent will return the original judgment and the order.

Make three copies of the order.

Attend the Manchester District Registry of the High Court, and file there the original judgment and order, and make two copies of the order into office copies.

Attend the Salford Hundred Court and file there one of the office copy orders. The judgment having now been transferred, prepare an affidavit by the plaintiff.

The following form is given as an example:—

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

Manchester District Registry.

By transfer from the Salford Hundred Court.

Between *Plaintiff,*

and

Defendant.

I, of in the County of Lancaster, the above-named Plaintiff, make oath and say as follows:—

1. I did, on the day of 190 , in the Court of Record for the Hundred of Salford, in the County of Lancaster, obtain and enter final judgment against the above-named Defendant for £ : : debt and £ : : costs of suit, which said judgment was removed into this Honourable Court by an order dated the day of 190 , for the purposes of execution, and I have been allowed, pursuant to the said

order, the sum of £2. 2s. for the costs of and occasioned by such removal, as appears by the said order.

2. In respect of the said judgment debt and costs in the inferior court there still remains due thereon the sum of £ : : debt and £ : : costs of suit, and the said judgment is in full force and unsatisfied, besides which there is due the said sum of £2. 2s., costs of removal, making in the whole the sum of £ : :

3. The said defendant has not any goods or chattels upon which execution can be levied, nor is he entitled absolutely to any land or hereditaments, or any other property against which any Writ of Elegit, Fieri Facias, or other process of execution can be issued for the purpose of obtaining payment of the said judgment debt and costs, or any part thereof.

4. [*Insert here the full particulars of the property and the Defendant's interest therein.*]

5. I verily believe that the appointment of a Receiver of the said rents and profits is the only means I have to obtain satisfaction from the said Defendant of the said judgment debt and costs, and I hereby apply to this Honourable Court for the appointment of as such Receiver.

6. I further apply that the said order may be made ex parte, on the ground that the above-named Defendant, on or about the day of 190 , expressed to me his intention of departing immediately to the United States of America, and from that day I have neither seen nor heard of him, although I have made every enquiry from his friends and in the neighbourhood of aforesaid, and they inform me that he has actually gone to the United States of America, but that they are unable to give me any information whatever as to his whereabouts.

7. I verily believe that in case the said order be not made ex parte, I shall have no means whatever of serving the above-named Defendant with notice of my intended application nor of bringing the same to his knowledge, and further if I

by any means could give the said Defendant notice of my intended application he would take means before the said order could be made to divest himself of his interest under the said by sale or otherwise assigning the same for the purpose of defeating my said application.

8. The said parties mentioned in the fourth paragraph of this affidavit are situate within the district attached to the Manchester District Registry of this Honourable Court.

Sworn, etc.

Forward the office copy order and the affidavit to your London agent, sending him also copies of same for reference by him.

He will obtain an order in the following form :—

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

The Honourable Mr. Justice Judge in Chambers, Manchester District Registry, by transfer from the Salford Hundred Court.

Between Plaintiff,

and

Defendant.

Upon hearing the solicitor for the Plaintiff, and upon reading the affidavit of the Plaintiff, filed the day of 190 It is ordered that of be appointed Receiver (without security), or upon first giving security by bond to the satisfaction of one of the District Registrars of the Manchester District Registry, to receive the rents, profits, and moneys receivable in respect of the following property (that is to say) :—

And it is further ordered that such Receiver be at liberty only to receive an amount equal to the judgment debt and costs hereinafter mentioned.

But this appointment is to be without prejudice to the rights of any prior incumbrancers upon the said premises, who

may think proper to take possession of or receive the same by virtue of their respective securities, or if any prior incumbrancer is in possession, then without prejudice to such possession.

And that the tenants of the said premises do attorn and pay their rents in arrear and growing rents to the Receiver. And that such Receiver have liberty, if he shall think proper (but not otherwise), out of the rents, profits, and moneys to be received by him, to keep down the interest upon the prior incumbrances, according to their priorities, and be allowed such payments (if any) in passing his accounts, and that such Receiver shall on the day of next, and at such further and other times as may be ordered by the District Registrar, leave and pass such accounts, and shall on the day of next, and at such further and other times as may be hereafter ordered by the District Registrar, pay the balance or balances appearing due on the accounts so left or such part thereof as shall be certified as proper to be so paid; such sums to be paid in or towards satisfaction of what shall for the time being be due in respect of the judgment signed on the day of for the sum of £ debt, and £ for costs, and also the sum of £2. 2s. costs of removal, which judgment has been since removed into this Honourable Court. And that the costs of this Order and of carrying the same into effect, and of obtaining the discharge of the Receiver be not allowed.

And it is further ordered that the balance (if any) remaining in the hands of the Receiver after making the several payments aforesaid, shall forthwith be paid by the Receiver into Court to the credit of this action, subject to further order.

And any of the parties are to be at liberty to apply to the Judge in Chambers as there may be occasion.

Dated this day of 190

CHAPTER L.

Attachment of Debts.

The practitioner is referred to Order 45 of the Rules of the Supreme Court contained in the "Annual Practice," which deals fully with the attachment of debts. The law and practice in the Salford Hundred Court follows exactly that of the High Court.

Where a judgment has been obtained against a defendant, and it is believed that certain debts are due to the defendant, the plaintiff should fill up a precipe as follows:—

Summons for Examination of Judgment Debtor,

and attend the Court with same, whereupon a summons will be granted for that purpose.

The following is the form of the summons:—

To show cause why the Defendant should not attend the Registrar of this Court, or his deputy, and submit to be examined viva voce on oath touching the debts due and accruing due to him, and whether he has any and what means of satisfying the judgment debt, and why upon such examination he should not produce all books of account, papers, and writings in any way relating to such matters, and why the costs of this application and the examination should not be added to the judgment debt.

If the defendant has appeared to the writ, the copy summons must be served upon his solicitor. If the defendant has not appeared to the writ, the same may be posted to him at his residence, or affixed to the notice board in the Registrar's office.

Upon the hearing of the summons, an order is made as a matter of course.

The order reads thus:—

Upon hearing, etc., I do order that the Judgment Debtor shall attend before the Deputy-Registrar or other officer of this Court, and submit to be examined viva voce on oath, touching the debts due or accruing due to him, and whether the debtor has any and what other property or means of satisfying the judgment herein, and that the said Judgment Debtor upon such examination do produce all books of account, papers, and writings in any way relating to such debts, property, or means.

Registrar.

The cause of Action arose within the District.

I appoint the day of 190 , at the office of this Court, Northern Assurance Buildings, Princess Street, in the City of Manchester, at o'clock in the noon, to proceed with this examination.

Registrar.

Note.—If you, the above-named neglect to obey this order at the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the said order.

The Registrar, upon application, will make an appointment and mark the same on the order, whereupon a copy of the same must be served personally upon the judgment debtor within the jurisdiction of the Court, the original order being produced to the judgment debtor for his inspection; and at the same time there must be handed to the judgment debtor a sum sufficient to pay his expenses to the Court.

Where the judgment debtor, having been personally served with a copy of the order for his attendance before the Registrar, and having been handed a sufficient sum to pay his expenses to the Court, does not attend before the Registrar, the judgment creditor should then apply for the issue of a Writ of Attachment against the judgment debtor.

Upon the hearing before the Registrar, the judgment debtor must be examined carefully as to his property, and any debts which may be due or accruing due to him.

To take proceedings against any person owing money to the judgment debtor the solicitor must file an affidavit, form of which can be found in Appendix B, Part 2, Form 25, in the "Annual Practice."

If the affidavit is in order, the Clerk of the Court will grant an Order *Nisi* in the following form:—

Upon hearing the solicitor for the Judgment Creditor, and upon reading the affidavit of

Judgment Creditor, against

I do order that all debts due and owing or accruing due from the said Garnishee to the said Judgment Debtor be attached to answer a judgment recovered against the said Judgment Debtor by the said Judgment Creditor in this Court on the day of 190 , for the sum of £ and £ costs, and upon which judgment the sum of £ remains due and unpaid.

Judgment Debtor,

Garnishee.

And I do further order that the said Garnishee, his solicitor or agent, attend the Registrar at his office, Northern Assurance Buildings, Princess Street, in the City of Manchester, on the day of 190 , at eleven o'clock in the forenoon, to show cause why he should not pay the said Judgment Creditor the debt due from him to the said Judgment Debtor, or so much thereof as may be sufficient to satisfy the judgment debt.

Dated the day of 190

Registrar.

The cause of action arose within the District.

MEMORANDUM.

17 & 18 Vic., c. 125, ss. 62 and 63.

62. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee, in such manner as the Judge shall direct, shall bind such debts in his hand.

63. If the garnishee does not forthwith pay into court the amount due from him to the judgment debtor,

or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, then the Judge may order execution to issue, and it may be sued forth accordingly without any previous writ or process to levy the amount due from such garnishee towards satisfaction of the judgment debt.

This order should be served personally upon the proposed garnishee, but if left with some responsible person at the garnishee's residence or place of business, the service will be good.

Upon the hearing under the order, if the garnishee admits the debt or does not attend, an Order for Payment will be made under which execution can issue.

The following is a form of the order:—

Upon hearing the solicitors for the Judgment Creditor, and for the Garnishee, and upon reading the affidavit of
and the order made herein, on the day
Judgment Creditor, against *of 190 , whereby it was ordered that all debts owing or accruing due from the said Garnishee to the said Judgment Debtor be attached, to answer a judgment recovered against the said Judgment Debtor by the said Judgment Creditor, in this Court, on the day of 190 ,*
Judgment Debtor, *for the sum of £ debt and £*
costs, and upon which judgment the sum of £ remained due and unpaid.

I do order that the said Garnishee do forthwith
Garnishee. *pay the said Judgment Creditor the debt due from him to the said Judgment Debtor, or so much thereof as may be sufficient to satisfy the judgment debt: and that, in default thereof, execution may issue for the same.*

Dated the day of 190
The cause of action arose within the District.
Registrar.

If the garnishee disputes the debt, the Registrar will order the trial of an issue similar to that in an interpleader issue, and the action will then proceed in like manner as an interpleader issue.

A form of such issue can be found in Appendix K, No. 40A, in the "Annual Practice."

The following is a form of Writ of *Fieri Facias* upon Garnishee Order:—

> EDWARD THE SEVENTH, *by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, Defender of the Faith, Emperor of India.*
>
> *To the Head Bailiff of our Court of Record for the Hundred of Salford, in the County of Lancaster, greeting, We command you that of the goods and chattels of E. F., within the jurisdiction of our said Court, you cause to be made pounds shillings and pence, being the amount [or part of the amount] of a debt due from the said E. F. to C. D., heretofore attached in the hands of the said E. F. by an order of the Registrar of this Court dated 190 , pursuant to the statutes and Rules in such case made, to satisfy [or towards satisfying] £ which A. B. lately before us in our said Court recovered against C. D. in a certain action wherein A. B. is Plaintiff and C. D. is Defendant, by the judgment of the said Court bearing date the day of 190 , whereby it was adjudged that C. D. should pay unto A. B. the sum of £ , together with interest upon the said sum at the rate of four pounds per centum per annum, from the day of 190 , on which day the judgment aforesaid was entered up, and that you have that money, with such interest as aforesaid, in our said Court immediately after the execution hereof, to be paid to the said and in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution thereof, and have here then this writ.*

WITNESS, *The Right Honourable* OSBERT CECIL, *Earl of Sefton, High Steward of the said Court at Manchester, in the said Hundred, the day of 190*

For charging Order for Solicitor's Costs, see "Chitty's Forms," Part 1, Section 5.

CHAPTER LI.

Attachment.

The practice of the Salford Hundred Court in reference to attachment is similar to that of the High Court, to be found in Order 44 of the Rules of the Supreme Court, except that the procedure is by motion instead of by summons.

The following is a form of the motion to the court where it is sought to attach a judgment debtor when he is in contempt for not appearing before the Registrar to be examined as to his property and debts:—

Take notice that this Honourable Court will be moved on Monday, the day of 190 , at ten of the clock in the forenoon, or so soon thereafter as counsel can be heard, at the Assize Courts, in the City of Manchester, for an order that the Judgment Creditor, may be at liberty to issue a Writ of Attachment against you the above-named the Judgment Debtor, for your contempt in not attending before the Registrar of this Court, pursuant to an order of William Henry Talbot, *the Registrar of the said Court, dated the day of 190 , by which order you were directed to attend before the Registrar of the said Court, and submit to be examined viva voce touching the debts due or accruing due, and whether you had any and what other property or means of satisfying the judgment herein, and that you do pay to the said the Judgment Creditor, the costs of and occasioned by this application, and of and incidental to the issuing and execution of the said Writ of Attachment.*

And also take notice that upon the hearing of the said application the said Judgment Creditor intends to use the

affidavit of , filed herein on the day of 190 , a copy whereof, together with a copy of the exhibit marked "A" therein referred to, is served with this notice.

Dated the day of 190

Solicitor for the said Judgment Creditor.

To the above-named Judgment Debtor.

The motion must be supported by affidavit.

The affidavit should show—

1. The personal service of the copy order within the jurisdiction of the Court, and production of the original.

2. The payment of ample conduct money.

3. A copy of the appointment, and of the service thereof.

4. A copy of the Warning of Neglect to Obey the Order, and of the service thereof.

5. The attendance by the applicant at the Court under the order and appointment.

6. The non-attendance of the judgment debtor.

The Notice of Motion and the Affidavit in Support must be personally served upon the party within the jurisdiction of the Court. An affidavit of the service must be filed and the motion set down for hearing; counsel must then be instructed to appear upon the hearing of the motion, who should, of course, be supplied with copies of all the proceedings in the case.

The following is an example of the order of the Court:—

Upon hearing counsel for the and upon reading the joint affidavit of and filed the day of and of filed the day of 190

It is ordered that a Writ of Attachment do issue against

the [Judgment Debtor], he having failed to comply with an order of this Court dated the day of 190 and that the costs of and occasioned by this application be taxed and paid by the said [Judgment Debtor] to the said [Judgment Creditor].

Counsel certified for

The above precedents are given as examples, which must be varied under the circumstances of each particular attachment.

For form of Writ of Attachment, see Appendix H, No. 12, in the "Annual Practice."

In reference to the application for the discharge of the judgment debtor, see the notes to Order 41, Rule 1, in the "Annual Practice."

The following is a Notice of Motion against a Solicitor for not appearing to a Writ of Summons in performance of his undertaking to that effect:—

Take notice, etc., for an order that the Plaintiff may be at liberty to issue a Writ of Attachment against you on the grounds that you have refused and neglected to enter an appearance to the Writ of Summons herein, pursuant to your undertaking in writing entered into by you on the day of as appears on the Writ of Summons herein, or that such order be made as the Court deem fit.

And that you do pay, etc.

It is now the practice to summon the defaulting solicitor before the Court to show cause why he should not enter an appearance in pursuance of his undertaking. See notes to Order 12, Rule 18, in the "Annual Practice."

CHAPTER LII.

Interpleader by Stakeholder.

Sections 109, 110, 111, 113, and 114 of the Salford Hundred Court of Record Act have reference to interpleader by a defendant in an action.

Order 57 of the Rules of the Supreme Court deals specially with interpleader, as also Chapter 121 of Chitty's "Archbold Practice of the King's Bench Division."

A form of Affidavit by Defendant on Interpleader will be found in Appendix B, Part 2, Form 26, in the "Annual Practice."

The following is a form of the Summons calling upon Claimants to Appear:—

> *On the hearing of an application by the Defendant that the Plaintiff and E. F., of do appear and state the nature and particulars of their respective claims to the subject matter of this action, and maintain or relinquish such claims; and that it be referred to the Registrar to tax the Defendant's costs of this action; and that such costs, when taxed, be paid to the Defendant out of the subject matter of this action; and that further proceedings in this action be stayed, and that the said E. F. be restrained from commencing proceedings against the Defendant in respect of the subject matter of this action, and that such other order may be made herein as may be deemed fit.*

The summons, together with the Affidavit in Support, must be served upon the plaintiff's solicitor, and also personally upon the claimant.

The claimant should make an affidavit stating his claim, and reasons for his claim, to the subject matter of the action.

Upon the hearing of the summons the Registrar may order the claimant to be substituted as defendant.

The form of such order is to be found in Appendix K, No. 51, in the "Annual Practice."

The Registrar may, however, direct an issue as between the parties.

The following is a form of such issue:—

It is ordered that all further proceedings in this action against the Defendant be stayed, and that the said Plaintiff and the said E. F. be restrained from proceeding against the said Defendant to recover the goods [*or £ : :*] *for which this action is brought, or any damages for or in respect of the same: And further, that the said Defendant do retain possession of the said goods until the further order* [*or, forthwith pay into Court to the credit of this action the said £ : :*]*: And further, that the said Plaintiff and the said E. F. do proceed to the trial of an issue to enquire whether the said goods, for which this action is brought, are the property of the said Plaintiff; in which issue the said Plaintiff is to be Plaintiff, and the said E. F. is to be Defendant: And I do further order that the said issue shall be prepared and delivered by the said Plaintiff within days from the date hereof, and returned by the said E. F. within days, and shall be tried at : And I do further order that the question of costs and all further questions be reserved until after the trial of the said issue.*

Where the third party does not appear, and an affidavit of due service upon him of the summons and Affidavit in Support is filed, the Registrar may make an order barring such third person of his claim against the defendant.

The following is a copy of the order in such case:—

Upon hearing for the Plaintiff and for the Defendant [*and E. F. not appearing upon the said summons to maintain or*

relinquish his claim as therein ordered], *and upon reading the affidavit of C. D., filed the day of 190 It is ordered that the said E. F. be barred from prosecuting his claim mentioned and referred to in the said summons and affidavit of the said C. D. against the said C. D., his executors or administrators, and further that* [*order as to costs*].

The following is a form of the issue:—

Interpleader issue for trial pursuant to the order of the Registrar, dated the day of 190

Whereas the above-named E. F. affirms, and the above-named A. B. denies, that [*here describe the subject matter of the issue as the goods now in the possession of one C. D., and for recovery whereof the said A. B. lately commenced an action against the said C. D.*] *is the property of the said E. F. as against the said A. B.* [*let this agree with the terms of the order*]: *And it has been ordered by the order of dated the day of that the said question shall be tried with a jury* [*or as the case may be*] *at Therefore let the same be tried accordingly.*

The following is a form of the judgment:—

The issue by the order of the Registrar dated the day of 190 , having on the day of 190 been tried before Henry Gordon Shee, Esq., K.C., *Judge of this Honourable Court, and a common jury of the said Hundred; and the jury having found* [*state the findings as in the certificate*], *and the said Judge having ordered that* [*state the order*], *therefore it is adjudged that* [*as according to Judge's directions*].

CHAPTER LIII.

Charging Shares in a Limited Company.

Order 46, Rule 1, of the Rules of the Supreme Court deals with an order to charge the interest of any judgment debtor in a limited company, and by 1 and 2 Victoria, Cap. 110, Sec. 14, it will first be necessary to transfer the judgment into the High Court.

Upon that being done, an affidavit must be made by the plaintiff's solicitor. A form of such affidavit can be found in Chapter 18 of "Chitty's Forms."

Upon filing such affidavit in the High Court, an Order *Nisi* is obtained, wherein is included an application for an Order Absolute to be made to a Judge in chambers, form of which can be found in Appendix K, No. 27, in the "Annual Practice." When made absolute, the order takes effect from the date of the Order *Nisi*.

The Order Absolute can be found in Appendix K, No. 28, in the "Annual Practice."

The notes under Order 46, Rule 1, should be carefully read in dealing with this subject.

CHAPTER LIV.

Summonses and Orders.

When a summons is required, a precipe must be filled up showing exactly the nature of the summons required. This must be taken to the Court, whereupon the Clerk of the Court will give the required summons. A copy of the summons must be made and served upon the opposite party before six o'clock in the evening of the same day, except on Saturdays, when it must be served before two o'clock, and an indorsement of the service made on the back of the summons. Service after the hours of six or two o'clock takes effect as service on the next working day. If the defendant has appeared in person, service of summonses, orders, and other documents not requiring personal service must be effected by leaving same with a person at the address given by the defendant in the book kept by the Registrar for that purpose. The address on the Memorandum of Appearance must be ignored if it differs from that given in the book.

If the case is one in which an affidavit is required, such affidavit should contain every fact necessary for the proper arguing of the case before the Registrar, and should be filed at the Court at the time of the issuing of the summons. A copy thereof must be served upon the opposite party at the time of the service of the summons.

The following are the formal parts of a summons issued by the Court:—

The day of 190

Let the solicitor attend the Registrar, at his office, Northern Assurance Buildings, Albert Square [Princess Street], in the City of Manchester, on next, at eleven o'clock in the forenoon, to show cause why

Registrar.

The cause of action arose within the District.

If the opposite party has no cause to show, his solicitor may, instead of attending the Court upon the hearing of the summons, indorse thereon the following words—"Take an Order," together with his signature, the date, and the name of the party whom he represents, and the order will then be drawn up as of course. If such indorsement is not made, attend at the Registrar's office, upon the return of the summons, and wait there a quarter of an hour.

If the opposite party attends the summons, the Registrar will hear both parties, and make an order, or dismiss the summons, as the case may be. The opposite party may, however, apply to have the hearing of the summons adjourned until another day, to enable him to answer by affidavit the affidavits filed.

If the opposite party does not attend at the time appointed by the summons, or within a quarter of an hour of such time attend before the Registrar, he will make an order, subject or not, as he thinks fit, to an Affidavit of the Service of the Summons.

The following are the forms of such affidavit:—

I, of
in the make oath and say as follows:—

That I did on the day of 190
before the hour of o'clock in the afternoon, serve a true copy of the summons hereunto annexed, marked "A," on Mr. the solicitor for the*
in this action, by leaving the same at the office of business of the said situate at
in the City of Manchester, with his clerk there.

Sworn, etc.

* In the case of a defendant in person continue thus:—

. . . on A. B., the Defendant in this action, by leaving the same at No. 22, Street, Manchester, with a there, that being the address for service

given by the said Defendant in the book kept by the Registrar of this Honourable Court for that purpose.

When the order is made, a copy thereof must be served upon the opposite party.

If the party issuing the summons does not attend the Court at the time appointed, the summons will be considered as abandoned.

For form of Order Dismissing a Summons see Appendix K, No. 57, in the "Annual Practice."

The Rules of the Salford Hundred Court in reference to summonses and orders are numbered 121 to 123 and 127 to 131 and also 138.

The attention of practitioners is drawn to Order 52, Rule 14, of the Rules of the Supreme Court, whereby certain orders of a non-special character need not be drawn up unless the Court otherwise directs:—

(1) Enlarging time;

(2) Leave to issue writ;

(3) Amendment of writ or pleadings;

(4) Filing documents;

production of memorandum signed by the Registrar being sufficient.

In such cases the following is a form of the Notice of Order to be served on the other side:—

Take notice that on the hearing of the [Plaintiff's] application under his notice [or summons] herein dated the day of 190 , it was ordered, etc.

CHAPTER LV.

Appeal from the Order of the Registrar.

By Section 121 of the Salford Hundred Court of Record Act 1868, there is exercisable by the Registrar of the Court all the authorities, powers, or duties exercisable by a Master of the High Court; therefore the rule in regard to an appeal from the order of the Registrar is governed by Order 54, Rule 21, of the Rules of the Supreme Court, and not by Order 35, Rule 9, of the Rules of the Supreme Court. Order 54, Rule 21, reads thus:—

> Any person affected by any order or decision of a Master may appeal therefrom to a Judge at chambers. Such appeal shall be by way of indorsement on the summons by the Master at the request of any party, or by notice in writing to attend before the Judge without a fresh summons within four days after the decision complained of, or such further time as may be allowed by a Judge or Master.

By Rule 22, an appeal from a Master's decision shall be no stay of proceedings unless so ordered by a Judge or Master.

As the Judge of the Salford Hundred Court only sits in Manchester every two months, it will be necessary to obtain the consent of the Registrar for an extension of time for the hearing of the appeal beyond the four days, and for a stay of proceedings.

The following is a form of the notice:—

> *I hereby, on behalf of the Plaintiff* [*or Defendant*], *give you notice pursuant to Order 54, Rule 21, of the Rules of the Supreme Court to attend before the Judge in Chambers, at the Assize Courts, Strangeways, in the City of Manchester, on the day of next, at 9-30 of the clock in the forenoon, on the hearing of an appeal from*

the order of the Registrar of this Honourable Court dated the day of 190 , for an order that the said order be rescinded or varied, or from the refusal of the said Registrar to make any order on the Plaintiff's [*or Defendant's*] *summons, dated the day of 190 , and for an order that* [*repeat terms of summons*], *and that the costs of this application and of the summons be paid by the Plaintiff* [*or Defendant*].

And further take notice that pursuant to Order 54, Rules 21 and 22, of the Rules of the Supreme Court, I give you notice to attend before the Registrar at his office, Northern Assurance Buildings, Albert Square [*Princess Street*], *in the City of Manchester, to-morrow* [*Wednesday*], *at eleven o'clock in the forenoon, for an order that the time for the hearing of the above appeal be extended, and that in the meantime all further proceedings may be stayed.*

Dated the day of 190

JOHN LAW,
1, Princess Street, Manchester,
Solicitor for the said Plaintiff.

To BRIEF, SONS & Co.,
1, Cross Street, Manchester,
Solicitors for the said Defendant and to the Registrar of the Court.

Copies of this notice should be served upon the other side and filed at the Court.

Upon the hearing before the Registrar for an extension of time for the hearing of the appeal, should the Registrar decline to give such extended time, the party aggrieved can always amend the notice to the Judge by asking upon the hearing of the appeal for such extension of time. This is provided by Order 64, Rule 7, of the Rules of the Supreme Court; but it is presumed that as it is practically impossible in the Salford Hundred Court for an appeal from the decision of the Registrar to be heard by the Judge within four days from the date of the decision complained of, the Registrar,

except in a palpably frivolous matter, will always grant the extension of time and stay of proceedings asked for.

An appeal is a re-hearing and fresh affidavits may be used.

There is no fresh appeal from the decision of the Judge in any interlocutory applications,[1] his decision is therefore final.

The following are forms of orders of the Judge on such appeal :—

Upon hearing and upon reading on appeal from the order of the Registrar dated

It is ordered that the said order be rescinded [*or varied*], *and that* [*set out terms of Judge's order*], *and that the costs of this appeal and of the application of the Registrar be*

[*Fit for counsel.*]

Upon hearing, etc.

It is ordered that the said appeal be dismissed, etc.

[1] Beriro *v.* Thalheim, 36 "Solr's. Jrnl.," 44 (1891).

CHAPTER LVI.

Default in Proceeding for One Year.

Rule 139 of the Rules of the Salford Hundred Court reads thus:—

> 139. In all causes in which there have been no proceedings for one year from the last proceeding had, the party, whether plaintiff or defendant, who desires to proceed shall give fourteen days' notice to the other party of his intention to proceed. The summons of the Registrar, if no order be made thereupon, shall not be deemed a proceeding within this rule. Notice of trial, though afterwards countermanded, shall be deemed a proceeding within it.

But this rule is superseded by Order 64, Rule 13, of the Rules of the Supreme Court, which reads thus:—

> In any cause or matter in which there has been no proceeding for one year from the last proceeding had, the party who desires to proceed shall give a month's notice to the other party of his intention to proceed. A summons on which no order has been made shall not, but notice of trial although countermanded shall be deemed a proceeding within this rule.

The following is a form of the notice required:—

> *Take notice that pursuant to Order 64, Rule 13, of the Rules of the Supreme Court, the above-named Plaintiff* [*or Defendant*] *will, upon the expiration of one month after the service of this notice upon you, proceed further in this action by*
>
> [*signing judgment against you in default of your appearance to the Writ of Summons, dated the day of 190 , and served upon you on the day of 190*].[1]

[1] Webster *v.* Myer, 14 Q.B.D., 231 (1884).

CHAPTER LVII.

Writ of Inquiry.

The following are the Rules of the Salford Hundred Court in reference to Writs of Inquiry:—

> 56. Where the plaintiff has signed interlocutory judgment more than six days before any sitting of the Court for the trial of issues, and it shall be necessary to execute a Writ of Inquiry, he shall be entitled upon giving the notice required to execute at such Court an inquiry for the assessment of damages.
>
> 57. In the execution of a Writ of Inquiry, the same proceedings shall be had as upon the execution of a Writ of Inquiry issuing out of any of the superior courts of Westminster, except that instead of the jurors signing and sealing an inquisition, the verdict of the jury shall be entered by the Registrar at the foot of the Writ of Inquiry.

By Order 36, Rule 56, of the Rules of the Supreme Court, it is provided that the provisions of Rules 14, 15, 19, 34, 35, 36, and 37 of Order 36 shall, with the necessary modifications, apply to an inquiry pursuant to a Writ of Inquiry.

Chapter 115, Section 3, of Chitty's "Archbold Practice of the King's Bench Division," deals specially with Writs of Inquiry and the procedure therefor.

Practical Directions.—Sign Interlocutory Judgment.

For form see Appendix F, No. 2, in the "Annual Practice."

Draw up Writ of Inquiry.

The following is a form of a Writ of Inquiry, which is addressed to the Judge and not to the Head Bailiff:—

> Edward the Seventh, *etc.* *To the Judge of our Court of Record for the Hundred of Salford, in the County of Lancaster. Whereas it has been adjudged that the Plaintiff recover against the Defendant damages to be assessed. Therefore we command you that by the oaths of twelve good and lawful men within the jurisdiction of our Court of Record for the said Hundred of Salford, you enquire what damages the Plaintiff is entitled to recover under the said judgment, and that forthwith thereafter you send the inquisition which you shall take thereupon to our said Court under your seal together with this writ.*

This writ is lodged at the Court and set down for trial.

Notice of the inquiry must be given to the defendant.

The following is a form of such notice:—

> *Take notice, that a Writ of Inquiry of damages in this action will be executed at the sitting of this Court to be holden on the day of 190 , at the Assize Courts, Strangeways, in the City of Manchester, in the County of Lancaster, when and where counsel will attend on behalf of the Plaintiff.*
>
> *Dated the day of 190*
>
> *Plaintiff's Solicitor.*
>
> *To*
>
> *Defendant's Solicitor.*

The brief, etc., must be prepared as on an ordinary trial.

The Judge indorses on the writ the verdict with the words: "The execution of the within Writ of Inquiry appears by the verdict indorsed hereon."

The following is a form of the judgment to be signed after the execution of the Writ of Inquiry:—

The Writ of Inquiry herein, having on the day of 190 been executed before HENRY GORDON SHEE, Esq., K.C., *Judge of this Court, and a common Jury of the said Hundred, and the Jury having found a verdict for the Plaintiff for £ damages, and the said Judge having ordered that final judgment be entered for the Plaintiff for that amount.*

It is this day adjudged that the Plaintiff recover against the Defendant £ and costs to be taxed.

The costs of the two judgments will be taxed together.

CHAPTER LVIII.

Writ of Elegit.

Under the Statute 13 Edw. I., Cap. 18, amended by 1 and 2 Vict., Cap. 110, Section 11, and by the Bankruptcy Act 1883, Section 169, and 5th Schedule, the Sheriff is required to deliver to the judgment creditor the whole of the debtor's land. By Section 28 of the Salford Hundred Court Act 1868 the Head Bailiff has all the powers of a sheriff, and can therefore execute Writs of *Elegit*.

A precipe for Writ of *Elegit* can be found in Appendix G, No. 2, in the "Annual Practice," and the Writ of *Elegit* itself in Appendix H, No. 3, directed to the Head Bailiff.

Upon receipt of the writ the Head Bailiff appoints a time for its execution, and empanels a jury to enquire as to the lands and tenements, etc., of the debtor, and their value.

The execution creditor must attend at the appointed time and place with his witnesses to show what lands, etc., the debtor has, their nature, and annual value. The proceeding is an *ex parte* one, and the inquisition is not conclusive on the debtor. No notice of the taking of the inquisition need be given to the judgment debtor. The inquisition should be prepared beforehand.

The following is a form of the Return of Inquisition:—

The execution of this writ appears in the Inquisition hereunto annexed.

[*The answer of , Head Bailiff.*]

An Inquisition indented taken at the City of Manchester the day of 190 , before me,

, Head Bailiff of this Court, by virtue of His Majesty's writ to me directed in this behalf, and to this Inquisition annexed by the oath of [*name of the jurors upon the inquest*], *twelve honest and lawful men of the Hundred of Salford, who, being sworn and charged, say upon their oath that C. D., named in the said writ to this Inquisition hereunto annexed, on the day of taking this Inquisition, had no goods or chattels in the said Hundred of Salford to the knowledge of the said jurors, and the jurors aforesaid, upon their oath aforesaid, do further say that the said C. D., on the day of 190 was seized in his demesne as of fee simple of and in* [*describe the premises*] *and being of the clear yearly value of pounds in all issues beyond reprises. And lastly, the jurors aforesaid, upon their oath aforesaid, said that the said C. D., in the said writ named on the aforesaid day of taking this Inquisition, had not any other or more lands or tenements nor any rectory, tithes, rents, or hereditaments in the Hundred aforesaid, whereof he the said C. D. was seized or possessed at the time of entering up the said judgment, or at any time afterwards, any other or more lands in the said Hundred over which he had any disposing power which he might, without the assent of any other person, have exercised for his own benefit, to the knowledge of the said jurors.*

In Witness *whereof as well I, the said Head Bailiff, as the Jurors aforesaid have set our seals to this Inquisition on the day, year, and the place aforesaid.*

This must be signed and sealed by the Head Bailiff and the jurors.

The Head Bailiff must file the return at the Court.

The Head Bailiff only delivers legal possession of the lands (or rather a right of entry) and not actual possession. The

execution creditor may, when the debtor is in possession, enter and take possession under the *elegit*.

If the debtor be not in possession, the creditor should proceed by action for the recovery of the lands, for which purpose the writ must be returned and filed, and an award of the writ and the inquisition entered.

The practitioner is referred to Chitty's "Forms and Practice" for this procedure.

CHAPTER LIX.

Ejectment.

The jurisdiction of the Court in reference to actions of ejectment is given by Sub-section 2 of Section 6 of the Salford Hundred Court of Record Act, which reads as follows :—

The Court has authority to try—

> Sec. 6, sub-sec. 2. Actions of ejectment between landlord and tenant, provided the land of which possession is sought to be recovered is situate in the Hundred, and the annual rent, or the annual value of such premises, do not exceed fifty pounds, and no fine shall have been paid, reserved, or made payable in respect of such land.

By Section 48 it is provided that—

> Sec. 48. All causes of action of whatever kind, except ejectments, may be joined in the same suit, provided they be by and against the same parties and in the same rights; but the Registrar shall have power to prevent the trial of different causes of action together if such trial would be inexpedient, and in such case the Registrar may order separate records to be made up and separate trials to be had.

By Sections 94 and 95 it is provided that—

> Sec. 94. All the provisions contained in the sections of "The Common Law Procedure Act 1852," numbered 168, 169, 170, 171, 172, 174, 175, 176, 177, 178 (except such part thereof as relates to the Sheriff being directed to summon a jury), 179, 180, 181, 183, 184, 185, 186, 187, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215,

216, 218, and 221 in the Queen's Printers copies of the said Act, so far as such provisions extend or are or may be applicable to an action of ejectment between landlord and tenant shall extend and apply to the Court, but the sections as applied to the Court shall be read as if instead of the words "a Judge," and instead of the word "Sheriff," the word "Registrar" had been used therein; and such parts of the provisions and enactments contained in the before-mentioned sections as relate to the time within which such judgment may be signed and execution issue shall not be so extended or applied, and in lieu thereof judgment may be signed and execution issued on any day subsequent to the day on which the issue may come on to be tried, unless the Judge shall order proceedings to be stayed.

Sec. 95. If, after appearance entered, the claimant without going to trial allow the time allowed for going to trial by the practice of the Court in ordinary cases after issue joined to elapse, the defendant in ejectment may give ten days' notice to the claimant to proceed to trial at the sittings holden for the trial of issues next after the expiration of the notice, and if the claimant afterwards neglects to give notice of trial for such sittings, or to proceed to trial in pursuance of the said notice given by the defendant, unless the time for going to trial shall be extended by the Registrar, the defendant may sign judgment in the form contained in the Schedule (A) to "The Common Law Procedure Act 1852" annexed, marked number 19, and recover the costs of defence.

The Rules of the Salford Hundred Court in reference to actions of ejectment are numbered 100 to 104.

By Order 18, Rule 2, of the Rules of the Supreme Court, no cause of action shall, unless by leave of a court or a Judge, be joined with an action for the recovery of land, except claims in respect of mesne profits or arrears of rent, or double value in respect of the premises claimed, or any part thereof, and damages for breach of any contract under which

the same or any part thereof are held, or for any wrong or injury to the premises claimed.

Chapter 106 of Chitty's "Archbold Practice of the King's Bench Division" deals specially with actions of ejectment.

There are generally five classes of actions for recovery of land:—

(1) In ordinary cases.

(2) By landlord for breach of covenant under right of re-entry or forfeiture to which Section 14 of the Conveyancing Act 1881 applies.

(3) By landlord upon the termination of a tenancy.

(4) By landlord against tenant for non-payment of rent.

(5) By mortgagee.

The Judicature Acts have abolished most of the previously existing differences between an action of ejectment and an ordinary action, and the proceedings are now, with a few exceptions, similar to those in an ordinary action.

The first thing to consider is whether the plaintiff has placed himself in the right position to commence the action by giving the proper legal notices to quit, etc.

The writ is in the ordinary form, and the indorsement may be as follows, or to the like effect:—

The Plaintiff's claim is to recover possession of a house, No. 1, Princess Street, Hulme, in the City of Manchester.

And to establish his title to [*here describe the property*] *and to recover the rents thereof.*

And for mesne profits.

And for an account of rents.

And for breach of covenant for [*repairs*].

As to serving writ in case of vacant possession, see Order 9, Rule 9, of the Rules of the Supreme Court.

By the Common Law Procedure Act 1852, Section 209, the following notice must be given by a tenant to his landlord of ejectment brought:—

> *Take notice that you will receive herewith a copy of a Writ of Summons which has been served in an action for the recovery of the possession of the messuage, land (as the case may be) and premises at and held by me as your tenant.*

The defendant may in his appearance give a notice that he limits his defence to part only of the claim.

By Order 12, Rule 25, of the Rules of the Supreme Court:—

> 12. Any person not named as a defendant in a Writ of Summons for the recovery of land may by leave of the court or Judge appear and defend on filing an affidavit showing that he is in possession of the land either by himself or by his tenant.

The form of the affidavit is somewhat as follows:—

> *1. That this is an action brought for the recovery of the possession of a messuage, land (as the case may be), and premises situate at*
>
> *2. That I am in possession of the said* [ ] *and premises by myself* [*or by the above-named as my tenant*].

The following is a form of the order:—

> *Upon hearing, etc., and upon reading the affidavit of filed the day of It is ordered that the said be at liberty to appear to and defend this action (as landlord of C. D., the Defendant, and to defend for the property claimed).*

The form of Appearance by a Landlord not named in writ must include the words:—

Enter an appearance for landlord of the said pursuant to the order of the Registrar, dated the day of

For form of Affidavit when Possession Vacant, see Chitty's "King's Bench Forms," as also the further forms generally in the action.

The Statement of Claim must state all the material facts upon which the plaintiff intends to reply, and should trace his title step by step from the person under whom he claims.

For forms of Statement of Claim, see Appendix C, Section 7, in the "Annual Practice."

For forms of Defence, see Appendix D, Section 7, in the "Annual Practice," with particular reference to Order 21, Rule 21, of the Rules of the Supreme Court.

For form of Judgment after Trial, see Chitty's "King's Bench Forms."

A judgment for the recovery or for the delivery of the possession of land may be enforced by Writ of Possession, for which see Appendix H, No. 8, in the "Annual Practice."

For form of *Fieri Facias* for the costs, see Chitty's "King's Bench Forms."

CHAPTER LX.

Notice of Action.

In ordinary cases no notice of action is necessary, although it is usual and courteous to send the ordinary solicitor's letter to a person before commencing an action against him.

Notice of action is, however, required before commencing proceedings against any person for anything done in pursuance of the Salford Hundred Court of Record Act 1868.

Section 138 reads thus:—

> Sec. 138. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within one year after the act committed, and not afterwards or otherwise, and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action, and no plaintiff shall recover in any action if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the defendant.

In Lamley *v.* Mayor, etc., of East Retford, reported in the "Justice of the Peace," 28th February 1891, the Master of the Rolls said: "It is not necessary that the whole of a Notice of Action be set out in one document. It is sufficient if the defendant is informed in writing of the cause of action 'clearly stated,' and the name and place of abode of the intended plaintiff, and also of his solicitor."

The following is a form of the notice:—

As solicitor for of and according to the statute in that behalf, I do hereby give you notice that the said will, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a Writ of Summons to be issued out of the King's Bench Division of the High Court of Justice (as the case may be) against you at the suit of the said , and proceed thereupon according to law. For that you the said on the day of at [*here state the cause of action*].

As notice of action must still be given, if it is required by an Act of Parliament which is not a public general Act, it would appear that notice of action must be given under Sec. 138 of the Salford Hundred Court of Record Act before commencing an action for anything done in pursuance of the Act.

A form of Tender of Amends will be found in "Chitty's Forms," Part 2, Section 3.

CHAPTER LXI.

Affidavits.

The following section of the Salford Hundred Court of Record Act deals with affidavits:—

> Sec. 99. In every case in which, according to the practice of the Court, any affidavit may be filed, read, or used for any purpose whatsoever, or in any manner howsoever, the same affidavit shall and may be made before the Judge or the Registrar, or before any Commissioner for taking affidavits in any of Her Majesty's Superior Courts at *Westminster*, or before any Commissioner for taking affidavits in the Court of Common Pleas at *Lancaster*.

The Rules of the Salford Hundred Court in reference to affidavits are numbered 113 to 120.

By Section 5 of the Borough and Local Courts of Record Act 1872, 35 and 36 Vict., Cap. 86:—

> Sec. 5. Affidavits made before any Commissioner or other person appointed or authorised to take affidavits, either in England or elsewhere, by the Lord High Chancellor, or by any of the superior courts, or by the Judges thereof, may be used in the Court, and the signature of any person purporting to be such Commissioner, or to be a person so appointed or authorised as aforesaid, need not be verified.

By Section 3 (1) of the Commissioners for Oaths Act 1889:—

> (1) Any oath or affidavit required for the purpose of any Court or matter in England, or for the purpose of the regis-

tration of any instrument in any part of the United Kingdom, may be taken or made in any place *out of England* before any person having authority to administer an oath in that place.

(2) In the case of a person having such authority otherwise than by the law of a foreign country, judicial and official notice shall be taken of his seal or signature affixed, impressed, or subscribed to or on any such oath or affidavit.

The profession should remember the much greater decency by use of the Scotch form of oath :—

The Deponent, standing up with uplifted hand, repeats the following words :—"I swear by Almighty God [as I shall answer to God at the great day of judgment] that the contents of this my affidavit are true."

The words in brackets may be omitted.

The following are the words to be placed on an exhibit to an affidavit :—

IN THE SALFORD HUNDRED COURT.

Between *Plaintiff,*

and

Defendant.

This is the exhibit, marked "A," referred to in the annexed affidavit of
sworn before me the *day of* *190*

A Commissioner for Oaths.

CHAPTER LXII.

General Rules and Regulations of the Court.

(Now superseded generally by the Rules of the Supreme Court.)

In pursuance of a Statute passed in a Session of Parliament holden in the 31st and 32nd years of the reign of Her present Majesty, intituled "An Act to amalgamate the Court of Record for the Hundred of Salford in the County of Lancaster, and the Court of Record for the trial of civil actions within the City of Manchester, and to constitute the said amalgamated court the Court of Record for the Hundred of Salford in the County of Lancaster, with extended powers, and to regulate the practice and procedure therein, and for other purposes";—

It is ordered, that save and except as regards all actions, proceedings, matters, and things in or appertaining to the Court of Record for the Hundred of Salford in the County of Lancaster, and the Court of Record for the trial of civil actions within the City of Manchester, which shall have been commenced or depending before or at the time when the said Act shall come into operation, all existing rules of practice in either of the said Courts shall be and the same are hereby revoked and annulled; and that the practice to be observed in the said amalgamated Court of Record for the Hundred of Salford, with respect to the matters hereinafter mentioned, shall henceforth be as follows, that is to say:—

Holding of Courts.

1. The Court shall be holden before the Judge, or, in his absence, before such person as may be lawfully appointed by him to be his deputy in that behalf, as well for the trial of issues of law and of fact and for hearing special cases, as for all other purposes within the competency of the court, six times

in each year, on days to be appointed by the Judge for that purpose, with no greater interval between the holding of any two successive courts than three calendar months.

2. The Court shall be holden for all other purposes within the competency of the Court, except the trial of issues of law or of fact and hearing of special cases, on every Thursday at eleven o'clock in the forenoon, excepting if the Thursday shall be Christmas Day or a day appointed for a public fast or thanksgiving day, the Court for that week shall be holden on the day preceding, before the Judge or his deputy, or, in the absence of both the Judge and his deputy, before the Registrar of the Court or his deputy, or before such other person as shall be duly appointed in that behalf.

3. Intermediate courts shall be holden at eleven o'clock in the forenoon of every day between Thursday and Thursday (holidays excepted) for all such purposes within the competency of the Court, except the trial of issues of law or of fact and hearing special cases, as the Court may think proper on account of urgency to take at any such intermediate court; the same to be holden before the Judge or his deputy, or, in the absence of both the Judge and his deputy, before the Registrar of the Court or his deputy, or before such other person as shall be duly appointed in that behalf.

Office hours.

4. The Registrar's office shall be opened (holidays excepted) from ten o'clock in the forenoon until four o'clock in the afternoon on every day but Saturdays, and on Saturdays from ten o'clock in the forenoon until one o'clock in the afternoon.

5. The Head Bailiff's office shall be opened (holidays excepted) from ten o'clock in the forenoon until two o'clock in the afternoon on every day but Saturdays, and on Saturdays from ten o'clock in the forenoon until twelve o'clock at noon.

Holidays.

6. Sundays, and all days appointed for public fast or thanksgiving, or to be kept as public holidays, and also the days

between the 24th day of December and the 2nd day of January, and between the Thursday next before Good Friday and the Thursday in Easter Week, and all the days in Whit Week, as also fourteen days to commence on the third Monday in the month of August in every year shall be observed and kept as holidays; provided always, that if the last day for filing any pleading, or taking any other step or proceeding in a cause, except entering an appearance to any Writ of Summons, shall in any case happen on a Sunday, or on any day appointed for a public fast or thanksgiving, or to be kept as a public holiday, in either of such cases the following day shall be considered as the last day for filing such pleading, or taking such other step or proceeding in the cause; provided also, that the days between the 24th day of December and the 2nd day of January, and the days between the Thursday next before Good Friday and the Thursday in Easter Week, and the days in Whit Week, and the said fourteen days in August in any year shall in no case be reckoned in the time allowed for entering any appearance to any Writ of Summons, or for filing any pleading, or for taking any other step or proceeding in a cause; but the party required or called upon to enter such appearance, or to file such pleading, or to take such other step or proceeding in the cause, shall be allowed the same number of days for that purpose, after the expiration of those days, as were unexpired at the time they commenced.

Attorneys.

7. Any attorney of Her Majesty's superior courts may be admitted an attorney of this Court on producing his certificate of admission in any one of the superior courts, and his certificate to practise, or otherwise satisfying the Registrar thereof, and on signing the roll of attorneys of this Court.

8. Every attorney of this Court shall, on or before the 1st day of April in each year, produce his certificate to practise for the current year or give other reasonable proof thereof to the Registrar; and if any attorney, after seven days' notice from the Registrar, neglect such production or other proof, he shall be prohibited from practising in this court until such production or other proof shall be given.

9. Every attorney practising in this court shall enter in a book to be kept by the Registrar his name and place of business, or if he has no place of business within the jurisdiction of this court, then some other proper place within such jurisdiction where he may be served with notices, summonses, orders, rules, and other proceedings and documents; and as often as any such attorney shall change his place of business, or such other place as aforesaid, he shall make the like entry thereof in the said book, and all notices, summonses, orders, rules, and other proceedings and documents which do not require a personal service shall be deemed sufficiently served upon such attorney if a copy thereof shall be left at the place last entered in such book; and if any such attorney shall neglect to make any such entry, the fixing up of any notice, or the copy of any notice, summons, order, rule, or other proceeding or document, for such attorney, in the Registrar's office, shall be deemed a sufficient service thereof on such attorney.

10. If any attorney shall be guilty of malpractice or wilful misconduct in the discharge of his duty as an attorney, or in his character of an attorney of this Court shall either directly or indirectly act as agent in any action or matter in this Court for any person not duly admitted and qualified to act as an attorney or solicitor of one of Her Majesty's superior courts, or shall use or permit or suffer his name to be in anyways made use of in any such action or matter, upon the account or in anywise for the profit, benefit, or advantage of any person who shall not be admitted and qualified to act as an attorney or solicitor of one of Her Majesty's superior courts, or shall send any process to such unqualified person, or do any other act thereby to enable such unqualified person to appear, act, or practise in any respect as an attorney or agent in any action in this Court, knowing such person not to be duly qualified as aforesaid, and complaint and proof thereof shall, in any or either case, be made to the satisfaction of this Court that such attorney hath offended therein as aforesaid, then and in any such case the name of every

such attorney so offending shall be struck off the roll of attorneys of this Court, and every such attorney shall be prohibited from ever after practising in this Court, or the Court may in its discretion inflict punishment for such offence by fine or suspension of privilege to practise in this Court, or both, as the Court shall think fit.

11. Any attorney practising in this Court may have his bill of costs for any business done in this Court referred to the Registrar, to be taxed upon the application of the party chargeable by such bill, or liable for payment thereof, or who shall have been called upon or required to pay the same, or who shall have paid such bill of costs, and whether the same shall have been chargeable to or payable or paid by any such party, as costs between attorney and client, or as costs between party and party, provided always, that such application be made within a reasonable time, and it shall be in the discretion of the Registrar, on every such application and reference, to order and direct the attorney whose bill shall be so referred to be taxed, to refund any sum which upon such taxation shall appear to have been overpaid to him, and further to order and direct by whom and to whom, and in what manner, the costs of such application and reference shall be paid.

12. Every attorney who shall give his undertaking to enter an appearance for a defendant or defendants to any Writ of Summons issued out of this Court, shall enter such appearance accordingly; and every attorney who in his character, and as incident to his office of attorney, shall give any undertaking in a cause or other proceeding in this Court, shall perform such undertaking; and every attorney who shall not enter such appearance according to his undertaking, or shall not perform his undertaking given in any cause or other proceeding in this Court shall be deemed guilty of a contempt of this Court, and liable to an attachment; or this Court shall in its discretion suspend such attorney from practising as an attorney of this Court for any period of time

it shall think fit, or order the name of any such attorney to be struck off the roll of attorneys of this Court, and such attorney shall be prohibited from afterwards practising in this Court.

13. No attorney in a cause shall be changed without an order of the Registrar for that purpose.

14. No attorney or attorney's clerk shall enter into any undertaking, or engage to indemnify the party entering into any undertaking, or become surety for costs in any cause wherein security for costs shall be required or ordered, pursuant to any of the provisions contained in "The Salford Hundred Court of Record Act 1868," or pursuant to any rule, order, or practice of this Court.

Parties suing or defending in person.

15. All parties, not being attorneys practising in this or one of His Majesty's superior courts, suing or defending in person, shall appear personally before the Court, or before the Registrar, on every proceeding taken in the cause, either in court or before the Registrar; and any person so appearing and falsely representing himself or herself as the party so suing or defending, shall be deemed guilty of a contempt of the Court, and liable to an attachment.

16. In all cases where a party sues or defends in person, he shall, upon issuing any Writ of Summons or other proceeding, or entering an appearance, enter in a book to be kept for that purpose by the Registrar an address within the City of Manchester or Borough of Salford at which all notices, summonses, orders, rules, or other proceedings or documents not requiring personal service shall be left; and all notices, summonses, orders, rules, and other proceedings and documents which do not require a personal service shall be deemed sufficiently served upon such party if a copy thereof shall be left at the place entered in such book; and if any such party shall neglect to make any such entry, the fixing up of any notice, or the copy of any notice, summons, order, rule, or

other proceeding or document for such party in the Registrar's office shall be deemed a sufficient service thereof on such party.

17. In all cases where a plaintiff shall have sued out a writ in person, or a defendant shall have appeared in person, and either party shall by an attorney of the Court have given notice in writing to the opposite party, or the attorney or agent of such party, of such attorney being authorised to act as attorney for the party on whose behalf such notice is given, all notices, summonses, orders, rules, and other proceedings and documents which, according to the practice of the Court, are to be delivered to or served upon the party on whose behalf such notice is given shall thereafter be delivered to or served upon such attorney.

Writ of Summons.

18. The Writ of Summons to be used under the provisions of "The Summary Procedure on Bills of Exchange Act 1855" shall be in the form contained in the Schedule A hereto annexed, and shall be subscribed and indorsed as therein mentioned. And the final judgment to be signed under the provisions of the said last-mentioned Act shall be in the form contained in Schedule B hereto annexed.

19. When a Writ of Summons is indorsed in the special form mentioned in Section 27 of "The Common Law Procedure Act 1852," the following are the amounts which may be indorsed by the plaintiff's attorney or agent upon the writ for costs thereof and of judgment, and to include mileage:—

In Actions Above £20.

In cases where the writ is served within the City of Manchester or Borough of Salford	£2 14 2
In agency cases or service out of the City of Manchester or Borough of Salford, or by a correspondent, including mileage in addition, not exceeding...	£3 2 2

In Actions Above £5, and Not Exceeding £20.

In cases where the writ is served within the City of Manchester or Borough of Salford	£1	16	2
In agency cases or service out of the City of Manchester or Borough of Salford, or by a correspondent, including mileage in addition, not exceeding...	£2	2	2

In Actions Not Exceeding £5.

In cases where the writ is served within the City of Manchester or Borough of Salford	£1	0	2
In agency cases or service out of the City of Manchester or Borough of Salford, or by a correspondent, including mileage in addition, not exceeding...	£1	4	2

Where the plaintiff's attorney at the time of issuing the writ claims more than the sums fixed as above, the indorsement on the Writ of Summons in respect of costs shall be as follows: "such sum as shall be allowed on taxation for costs." And in case the plaintiff shall be found not entitled to more costs than such fixed sums, or if more than one-sixth shall be disallowed, the plaintiff's attorney shall pay the costs of taxation, so if the attorney has indorsed on the writ one of the fixed sums for the costs of judgment, and claims more costs on signing judgment, and on taxation shall be found not entitled to more than such sum, or if more than one-sixth be taken off on taxation, the plaintiff's attorney shall in like manner pay the costs of taxation.

20. Every writ shall bear date on the day on which the same is issued, and shall be tested in the name of the High Steward, or in case of the vacancy of his office, in the name of the Judge.

Appearance.

21. If two or more defendants in the same action shall appear by the same attorney, and at the same time, the

names of all the defendants so appearing shall be inserted in one appearance.

Admission of *prochein ami*, guardian.

22. A special admission of *prochein ami*, or guardian, to prosecute or defend for an infant, shall not be deemed an authority to prosecute or defend in any but the particular action or actions specified.

Joinder of parties.

23. Whenever the plaintiff shall amend the writ after notice by the defendant, or by a plea in abatement of a non-joinder, by virtue of "The Common Law Procedure Act 1852," Section 36, he shall file a consent in writing of the party or parties whose name or names are to be added, together with an affidavit of the handwriting, and give notice thereof to the defendant, unless the filing of such consent be dispensed with by order of the Court or Registrar.

Declaration.

24. If the plaintiff does not declare within two calendar months next after the process is returnable, the defendant may at the expiration of four days after a written demand of declaration sign judgment of *non pros.*

25. Provided that an order for further time to declare may be granted by the Court or Registrar.

Pleadings.

26. All declarations, demurrers, pleas, and other pleadings shall be filed with the Registrar; and no declaration, demurrer, plea, or other pleading shall be considered as having been filed until the party filing the same shall have given notice thereof to the opposite party.

27. The defendant shall not be at liberty to waive his plea, or enter a *relicta verificatione* after a demurrer, without leave of the Court or Registrar, unless by consent of the plaintiff or his attorney.

28. Where a defendant shall plead a plea of judgment recovered, he shall in the margin of such plea state the date of such judgment, and if such judgment shall be in a Court

of Record, the number of the roll on which such proceedings are entered (if any), and in default of his so doing the plaintiff shall be at liberty to sign judgment as for want of a plea; and in case the same be falsely stated by the defendant, the plaintiff, on producing a certificate from the proper officer or person having the custody of the records or proceedings of the court where such judgment is alleged to have been recovered, that there is no such record or entry of a judgment as therein stated, shall be at liberty to sign judgment for want of a plea.

29. All pleas to the jurisdiction shall be filed, together with an affidavit verifying the same, and notice thereof given to the opposite party before the expiration of four days from the service of the notice of the declaration filed.

30. A demand of a joinder in demurrer, replication, or other pleading may be inserted in the notice of the demurrer, plea, or other pleading to which an answer is required.

31. A rule or order for further time to join in demurrer, reply, rejoin, or plead any subsequent pleading may be granted by the Court or Registrar on summons.

32. Judgment of *non pros* may be signed against the plaintiff, and judgment by default may be signed against the defendant at the opening of the Registrar's office on the morning next after the expiration of the time specified in the demand of declaration or subsequent pleading, or on the morning next after the expiration of any further time which may have been granted for filing such declaration or other pleading.

Payment of money into Court.

33. When money is paid into court in respect of any particular sum or cause of action in the declaration, and the plaintiff accepts the same in satisfaction, the plaintiff, when the costs of the cause are taxed, shall be entitled to the costs of the cause in respect of that part of his claim so satisfied up to the time the money is so paid in and taken out, what-

ever may be the result of any issue or issues in respect of other causes of action; and if the defendant succeeds in defeating the residue of the claim, he will be entitled to the costs of the cause in respect of such defence, commencing at "Instructions for Plea," but not before.

34. When money is paid into court in several actions which are consolidated, and the plaintiff, without taxing costs, proceeds to trial on one and fails, he shall be entitled to costs on the others up to the time of paying money into court.

Demurrer and special case.

35. The party demurring may give a notice to the opposite party to join in demurrer in four days, otherwise judgment; and either party may give to the opposite party a notice to reply or rejoin, as the case may be, in four days, otherwise judgment; but the Registrar may, at his discretion, grant an order for further time as heretofore.

36. Demurrers, as well as special cases, shall be set down for argument at the request of either party, and notice thereof shall be given by such party to the opposite party on the same day on which they shall have been so set down.

37. The party setting down the demurrer or special case for argument shall, at the time of setting the same down, deliver to the Registrar a copy of the demurrer book or special case, with the points intended to be insisted on by each party, together with the points relied upon by the opposite party, in case any statement of such points shall have been delivered to him. If no such statement shall have been delivered, the opposite party shall, two days before the day appointed for the hearing, deliver his statement of the points to the Registrar, either by marking the same in the margin of the copy delivered, or on separate paper, on pain, in case of default, of not being heard unless by leave of the Judge.

38. When there shall be a demurrer to part only of the declaration or other subsequent pleading, those parts only of

the declaration or pleading to which such demurrer relates shall be copied into the demurrer book; and if any other parts shall be copied the Registrar shall not allow the costs thereof on taxation, either as between party and party, or as between attorney and client.

Particulars of demand or set-off.

39. In all cases of a declaration filed containing causes of action such as those set forth in Schedule B of "The Common Law Procedure Act 1852," and numbered from 1 to 14 inclusive, or of a like nature (unless the writ has been specially indorsed under the provisions contained in the 25th section of "The Common Law Procedure Act 1852," and the 41st section of "The Salford Hundred Court of Record Act 1868"), the plaintiff shall with his Notice of Declaration deliver full particulars of his demand under such claim, where such particulars can be comprised within three folios and where the same cannot be comprised within three folios, he shall deliver such a statement of the nature of his claim, and the amount of the sum or balance which he claims to be due, as may be comprised within that number of folios; and in every case of a plea of set-off containing claims of a similar nature as those in respect of which a plaintiff is required to deliver particulars, the defendant shall with his Notice of Plea in like manner deliver particulars of his set-off. And to secure the delivery of particulars in all such cases, it is ordered that if any such Notice of Declaration or Plea shall be served without such particulars or such statement as aforesaid, and the Court or Registrar shall afterwards order a delivery of particulars, the plaintiff or defendant (as the case may be) shall not be allowed any costs in respect of any summons or application for the purpose of obtaining such order, or of the particulars he may afterwards deliver; and a copy of the particulars of the demand and set-off shall be annexed to every record at the time it is lodged with the Registrar.

40. If in the particulars of his demand the plaintiff gives credit for any specific sum or sums of money therein admitted to have been paid to him, it shall not be necessary for the defendant to plead the payment of such sum or sums.

41. But if the plaintiff, after stating the amount of his demand, states (without giving credit for any particular sum or sums) that he seeks to recover a certain balance, the defendant will not be allowed to give evidence of the payment of any sum or sums without such payment being specially pleaded.

42. A Summons for Particulars and order thereon may be obtained by a defendant before appearance, and may be made, if the Registrar thinks fit, without the production of any affidavit.

43. A defendant shall be allowed the same time for pleading, after the delivery of particulars under an order, which he had at the return of the summons, unless otherwise provided for in such order.

Security for costs.

44. An application to compel the plaintiff to give security for costs must in ordinary cases be made before issue joined.

45. If the plaintiff or, in any action where there are more plaintiffs than one, all the plaintiffs reside without the jurisdiction, and have no place of business within the jurisdiction of the court, the defendant may, upon affidavit, take out a summons for the plaintiff, to shew cause before the Registrar why all proceedings should not be stayed until security be given for costs, which summons shall be supported by affidavit; and if an order be made thereon, all proceedings shall be stayed until an undertaking to pay such costs shall be given by one sufficient housekeeper, residing or having a place of business within the jurisdiction of the Court, to be approved of by the Registrar.

46. If the plaintiff shall discontinue or become nonsuit, or a verdict or judgment shall pass against him, the said undertaking may be made a rule of the Court; and for non-performance thereof the defendant may have an attachment against the person entering into such undertaking, upon

affidavit of the costs having been demanded of such person and not paid.

Discontinuance.

47. To entitle a plaintiff to discontinue after plea pleaded, it shall not be necessary to obtain the defendant's consent; but the rule shall contain an undertaking on the part of the plaintiff to pay the costs, and a consent that if they are not paid within four days after taxation, defendant shall be at liberty to sign judgment of *non pros.*

Staying proceedings.

48. In any action against an acceptor of a bill of exchange, or the maker of a promissory note, the defendant shall be at liberty to stay proceedings on payment of the debt and costs in that action only.

Cognovit, Warrant of Attorney, and Order for Judgment.

49. No judgment shall be signed upon any *cognovit*, or any Warrant of Attorney, without such *cognovit* or warrant being delivered to and filed with the Registrar, who shall file the same in the order in which it is received.

50. When judgment is signed on a *cognovit*, or on an order authorising the plaintiff to sign judgment, no declaration to ground judgment shall be necessary or allowed on the taxation of costs.

51. Leave to enter up judgment on a Warrant of Attorney, above one and under ten years old, is to be obtained by an order to be made *ex parte*; and if ten years old or more upon a Summons to Show Cause.

52. Every attorney or other person who shall prepare any warrant of attorney, the confess judgment, which is to be subject to any defeasance, shall cause such defeasance to be written on the same paper or parchment on which the warrant is written, or cause a memorandum in writing to be made on such warrant, containing the substance and effect of such defeasance.

Evidence, admission, and inspection of documents, and depositions on interrogatories.

53. The form of Notice to Admit Documents referred to in "The Common Law Procedure Act 1852," Sec. 117, and

"The Salford Hundred Court of Record Act 1868," Sec. 97, may be as follows:—

In the Court of Record for the Hundred of Salford, in the County of Lancaster,

Between { *A. B.* - - - - - Plaintiff, and *C. D.* - - - - - Defendant.

Take notice that the { Plaintiff / Defendant } in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the { Defendant / Plaintiff } his attorney or agent, at , on , between the hours of ; and the { Defendant / Plaintiff } is hereby required within forty-eight hours from the last-mentioned hour, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated etc.,

To *E. F.*,
Attorney for { Defendant / Plaintiff }

G. H.,
Attorney for { Defendant / Plaintiff }

[*Here describe the documents, the manner of doing which may be as follows*]:—

ORIGINALS.

Description of Documents.	Date.
Bill of Exchange for £100, at three months, drawn by A. B. on and accepted by C. D.; indorsed by E. F. and G. H.	1st May 1867.

COPIES.

Description of Documents.	Date.	Original or duplicate served, sent, or delivered, when, how, and by whom.
Letter—Plaintiff to Defendant	1st February 1867.	Sent by general post 2nd February 1867.
Notice to produce papers	1st March 1867.	Served 2nd March 1867, on defendants attorney, by E. F. of——

54. In all cases of trials, Writs of Inquiry, or inquisitions of any kind, either party may call on the other party, by notice, to admit documents in the manner provided by and subject to the provisions of "The Common Law Procedure Act 1852," and "The Salford Hundred Court of Record Act 1868," and in case of the refusal or neglect to admit after such notice given, the costs of proving the document shall be paid by the party neglecting or refusing, whatever the result of the cause may be, unless at the trial or inquisition the Judge shall certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the Registrar, a saving of expense.

55. All depositions of witnesses taken under an order of the Court or Registrar, or a Writ of Commission, shall be returned to and filed in the office of the Registrar of this Court.

Writs of Inquiry.

56. Where the plaintiff has signed interlocutory judgment more than six days before any sitting of the Court for the trial of issues, and it shall be necessary to execute a Writ of Inquiry, he shall be entitled upon giving the notice required by these Rules to execute at such court an inquiry for the assessment of damages.

57. In the execution of an inquiry, the same proceedings shall be had as upon the execution of a Writ of Inquiry issuing

out of any of the superior courts of Westminster, except that, instead of the jurors signing and sealing an inquisition, the verdict of the jury shall be entered by the Registrar at the foot of the Writ of Inquiry.

Replication, etc., of *nul tiel* record.

58. On a replication or other pleading denying the existence of a record pleaded by the defendant, a rule for defendant to produce the record shall not be necessary or used; but instead thereof a four days' notice shall be substituted, requiring the defendant to produce the record, otherwise judgment.

Trial, trial by proviso, inquiry, notice of trial, etc.

59. Six days' notice shall be given, as well for the trial of an issue in fact as for the execution of an inquiry.

60. The expression "short notice of trial," or "short notice of inquiry" shall, in all cases, be taken to mean four days.

61. Where issue in fact has been joined ten days before any sitting of the Court for the trial of issues, if the plaintiff does not try the cause at such court, the defendant may, by giving six days' notice, bring it on for trial by proviso at any subsequent sitting of the Court for the trial of issues.

62. When notice of trial or inquiry has been given, notice of countermand of trial or inquiry may be given three days previous to the sitting day of the Court for which such notice of trial or inquiry may have been given, unless short notice of trial or short notice of inquiry has been given, and then two days before such sitting day, unless otherwise ordered by the Registrar, or by consent. In default of such notice of countermand, the party neglecting to proceed according to his notice of trial or inquiry shall pay to the opposite party the costs of the day, but a trial or inquiry may be postponed on good cause shown, subject to the discretion of the Court or Registrar, and on such terms as the Court or Registrar may impose.

63. The Court or Registrar may grant a rule for the costs of the day for not proceeding to trial, or to execute a Writ of Inquiry upon motion made on the usual affidavit.

64. In all cases where the plaintiff's pleading is in denial of the pleading of the defendant, without joining issue, the plaintiff's attorney may give notice of trial at the time of giving notice of his replication, or other subsequent pleading filed; and in case issue shall afterwards be joined, such notice of trial shall be available; but if issue be not joined on such replication or other subsequent pleading, and the plaintiff shall sign judgment for want thereof, and forthwith give notice of executing a Writ of Inquiry, such notice of inquiry shall operate from the time that notice of trial was given as aforesaid; and in all cases where the defendant demurs to the plaintiff's declaration, replication, or other subsequent pleading, the defendant's attorney, or the defendant if he plead in person, shall be obliged to accept with the notice of joinder a notice of executing a Writ of Inquiry; and in case the defendant pleads a plea in bar, or rejoinder, etc., to which the plaintiff demurs, the defendant's attorney, or the defendant if he plead in person, shall be obliged to accept with the notice of the demurrer a notice of executing a Writ of Inquiry.

65. In every case when a cause is to be tried, or a Writ of Inquiry to be executed, or a demurrer argued, or special case heard, the same must be entered by giving notice thereof to the Registrar, six days before the sitting day of the Court for which the same is intended to be entered.

Record and demurrer book.

66. The record, demurrer book, and special case shall be a full copy of the pleadings (fair copied bookwise, on foolscap paper) in every cause entered for trial or argument, and shall be delivered to the Registrar by the party giving notice of trial, or entering the cause, six days before the sitting day of the court for which the cause is entered for trial or argument, unless by consent, or Registrar's order, the party shall

have leave to deliver the same at any later hour before the sitting day.

67. Provided also, that when a defendant is under terms of taking short notice of trial, the plaintiff shall be at liberty to enter the cause for trial at the sitting for which the defendant is under such terms, six days before the said sitting, although the cause may not be then at issue; and if the cause shall be at issue before the said sitting, then the plaintiff shall be at liberty to lodge his record, with the particulars of demand and set-off (if any) with the Registrar, at any time before the sitting day.

Juries.

68. Three days at least before the sitting of the Court for the trial of issues, or for the execution of any Writ of Inquiry, the Registrar shall cause the common jurors to be summoned.

69. The Registrar shall keep in his office the panel of the jurors so summoned, for two days at least before the sitting of the Court for the trial of issues, or for the execution of Writs of Inquiry, and the parties in all causes entered for trial, and their respective attorneys, shall have full liberty to inspect such panel on demand, without payment of any fee.

70. No jury process shall be annexed to the record or other entry of the proceedings.

New trials, motions in arrest of judgment, and judgment *non obstante veredicto*.

71. No motion for a new trial, or to enter a verdict or nonsuit, motion in arrest of judgment, or for judgment *non obstante veredicto*, shall be allowed, except by leave of the Judge, after the expiration of four days from the day of trial.

72. No affidavit shall be used in support of a motion for a new trial, unless such affidavit shall have been made within the time limited for making such motion without the special permission of the Judge for that purpose.

73. If a new trial be granted without any mention of costs in the rule, the costs of the first trial shall not be allowed to the successful party though he succeeds on the second.

Judgment.

74. All judgments, whether interlocutory or final, shall be entered of record of the day of the month and year when signed, and shall not have relation to any other day; but it shall be competent for the court, or the Registrar, to order a judgment to be entered *nunc pro tunc;* and every judgment paper shall be filed with the Registrar at the time of the signing such judgment.

Costs and fees, setting off damages or costs.

75. With respect to plaintiff's costs, the sum recovered or obtained shall be taken to be the sum sought to be recovered; provided that, in all actions for unliquidated damages, the costs shall be taxed according to the third scale; but when the verdict recovered is for a less sum than £10, and the Judge shall certify that the action was a fit one to be brought in the Court, the Judge shall be at liberty to order that the costs shall be taxed according to the first or second scale, instead of the third.

76. When fees have been paid with a view to recover a larger sum than is actually obtained or recovered, such sum of money only shall be allowed as for payments as would have been payable if the sum obtained or recovered had been sought to be recovered only, and not the larger sum.

77. Fees of the Registrar, Head Bailiff, and other officers of the Court (if any) to be allowed in the attorney's costs, according to the Table of Fees duly confirmed and allowed.

78. Costs as between attorney and client are to be settled by the taxing officer, according to the Table of Fees duly confirmed and allowed, and to the practice of the superior courts.

79. If in any case in which the sum sought to be recovered shall exceed forty shillings, the office of the attorney for

either plaintiff or defendant shall be at a distance of more than five miles from the office of the Registrar for the time being, then, and in such case, in addition to the costs and fees above mentioned, it shall be in the discretion of the taxing officer to allow such sum for agency fees as under the circumstances of the case may seem reasonable.

80. In any case where the sum sought to be recovered shall exceed £50, such further costs as may seem reasonable, such allowance to be as nearly as possible in accordance with the practice of the superior courts at Westminster.

81. In the case of a cause being removed and coming back by *procedendo*, the fees in the superior court are to be regulated according to the practice of such superior court.

82. One day's previous notice of taxing costs, together with a copy of the bill of costs and affidavit of increase (if any) shall be given by the attorney of the party whose costs are to be taxed to the other party or his attorney, in all cases where a notice to tax is necessary.

83. One appointment only shall be deemed necessary for proceeding in the taxation of costs, or of an attorney's bill.

84. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person or by his attorney or guardian, nor where judgment shall be entered up by default, confession, or *nil dicit*.

85. When issues in law and fact are raised, the costs of the several issues both in law and fact will follow the finding or judgment, and if the party entitled to the general costs of the cause obtain a verdict on any material issue he will also be entitled to the general costs of the trial; but if no material issue in fact be found for the party otherwise entitled to the general costs of the cause, the costs of the trial shall be allowed to the opposite party.

86. No set-off of damages or costs between parties shall be allowed to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought, provided nevertheless that interlocutory costs in the same suit awarded to the adverse party may be deducted.

87. In all cases upon interlocutory applications where the Court or the Registrar shall deem it proper to award costs to either party, it shall be optional with the Court or Registrar to order the costs to be taxed, or by the order to direct the payment of a sum in gross in lieu of taxed costs, and also to direct by and to whom such sum in gross shall be paid.

88. Notice of the allowance of a Writ of *Certiorari* shall be forthwith given to the opposite party; and in default thereof, such opposite party shall be entitled to the costs of all proceedings taken before the service of the notice on him.

Error.

89. If the plaintiffs in error shall comply with the provisions of the 93rd section of "The Salford Hundred Court of Record Act 1868," then no rule or order to transcribe the record shall be necessary; but he shall, within twenty days after the filing with the Registrar of the Memorandum of Error required by "The Common Law Procedure Act 1852," and "The Salford Hundred Court of Record Act 1868," get the record transcribed and certified by the Registrar, and pay his fee thereon.

90. The return to the Writ of Error shall be signed by the Judge or the Registrar.

Execution.

91. It shall not be necessary before issuing execution upon any judgment whatever to enter the proceedings upon any roll.

92. No Writ of Execution shall be issued without a precipe being filed with the proper officer.

93. Every Writ of Execution shall be directed to the Head Bailiff, or to any other officer named in the writ, and shall bear date on the day on which the same shall be issued, and shall be tested in the name of the High Steward, or, in case of the vacancy of his office, in the name of the Judge, and may be made returnable immediately after the execution thereof; provided that every such writ shall be executed within three calendar months after the date thereof.

94. Every Writ of Execution shall be indorsed with the name and place of abode or office of business of the attorney actually suing out the same, and in case no attorney shall be employed to issue the writ, then it shall be indorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the city, borough, town, or parish, and the name of the hamlet, street, and number of the house of such plaintiff or defendant's residence, if any such there be.

95. Every Writ of Execution shall be indorsed with a direction to the Head Bailiff, or other officer or person to whom the writ is directed, to levy the money really due and payable, and sought to be recovered under the judgment, stating the amount, and also to levy interest thereon, if sought to be recovered, at the rate of four pounds per centum per annum, from the time when the judgment was entered up; provided that in cases where there is an agreement between the parties that more than four per cent interest shall be secured by the judgment, then the indorsement may be accordingly to levy the amount of interest so agreed.

96. In cases of an assessment of further damages pursuant to the Statute of 8 and 9 William III., it shall be stated in the body of the Writ of Execution that the Head Bailiff or other officer or person to whom the writ is directed to levy interest on the damages assessed and costs taxed in that behalf, at the rate of four pounds per centum per annum, from the day on which execution was awarded.

97. No Writ of Execution can be executed except within the jurisdiction of the court.

Revivor and *scire facias*.

98. A plaintiff shall not be allowed a rule to quash his own Writ of *Scire Facias* or Revivor after a defendant has appeared, except on payment of costs.

Entry of satisfaction on roll.

99. In order to acknowledge satisfaction of a judgment, it shall be requisite only to produce a Satisfaction Piece, in form as hereinafter mentioned, and such Satisfaction Piece shall be signed by the party or parties acknowledging the same, or their personal representatives, and such signature or signatures shall be witnessed by a practising attorney of one of the courts at Westminster, expressly named by him or them, and attending at his or their request, to inform him or them of the nature and effect of such Satisfaction Piece before the same is signed, and which attorney shall declare himself in the attestation thereto to be the attorney for the person or persons so signing the same, and state he is witness as such attorney: Provided that the Court or Registrar may make an order dispensing with such signature under special circumstances, if the Court or Registrar thinks fit, and in cases where the Satisfaction Piece is signed by the personal representative of a deceased, his representative character shall be proved in such manner as the Court or Registrar may direct.

FORM OF SATISFACTION PIECE.

In the Court of Record for the Hundred of Salford, in the County of Lancaster.

Monday, the day of in the year of our Lord One thousand nine hundred and

Hundred of Salford } to wit. } Satisfaction is acknowledged between Plaintiff and Defendant in an action for and and do hereby expressly nominate and appoint Attorney-at-Law, to witness and attest execution of this acknowledgment of satisfaction.

Judgment entered on the day of in the year of our Lord 190

Signed by the said (Signature)
in the presence of me
of one of the attorneys
of the Court of at
Westminster, and I hereby declare
myself to be attorney for and on behalf
of the said expressly the above-named
named by him and attending at his plaintiff.
request to inform him of the nature
and effect of this acknowledgment of (Date)
satisfaction, which I accordingly did
before the same was signed by him,
and I also declare that I subscribe my
name hereto as such attorney.

Ejectment.

100. No judgment in ejectment for want of appearance or defence, whether limited or otherwise, shall be signed without first filing an affidavit of the service of the writ according to "The Common Law Procedure Act 1852," and "The Salford Hundred Court of Record Act 1868," and a copy thereof, or where personal service has not been effected without first obtaining an order of court authorising the signing such judgment, which said order, or a duplicate thereof, shall be filed together with a copy of the writ.

101. An affidavit shall also be filed stating that the action is between landlord and tenant, and that the annual rent of the premises of which possession is sought to be recovered does not exceed £50, and that no fine has been reserved or made payable.

102. Where a person not named in the Writ in Ejectment has obtained leave of the Court to appear and defend, he shall enter an appearance according to "The Common Law Procedure Act 1852," and "The Salford Hundred Court of Record Act 1868," intituled in the action against the party

or parties named in the writ as defendant or defendants, and shall forthwith give notice of such appearance to the plaintiff's attorney, or to the plaintiff if he sues in person.

103. If the plaintiff in ejectment appears at the trial and the defendant does not appear, the defendant shall be taken to have admitted the plaintiff's title, and the verdict shall be entered for the plaintiff without producing any evidence, and the plaintiff shall have judgment for costs of suit as in other cases.

104. If a plaintiff in ejectment be nonsuited at the trial, the defendant shall be entitled to judgment for his costs of suit.

Paupers, actions by.

105. No person shall be admitted to sue in *formâ pauperis* unless (in addition to the usual affidavit by the pauper) the case laid before counsel for his opinion, and his opinion thereon, with an affidavit of the party or his attorney that the same case contains a full and true statement of all the material facts to the best of his knowledge and belief, shall be produced before the Registrar, and no fees shall be payable by a pauper to his counsel and attorney, nor at the office of the Registrar, by reason of a verdict being found for such pauper exceeding five pounds.

106. Where a pauper omits to proceed to trial pursuant to notice, he may be called upon by a rule to shew cause why he should not pay costs though he has not been dispaupered, and why all further proceedings should not be stayed until such costs shall be paid.

107. A person admitted to sue in *formâ pauperis* shall not in any case be entitled to costs from the opposite party, unless by order of the Court or Registrar.

Rules to return writs.

108. All rules upon the Head Bailiff to return writs shall be four-day rules.

109. In case a rule shall issue for the return of any Writ of *Capais ad Satisfaciendum*, *Fieri Facias*, *Habere Facies Possessionem*, *Venditioni Exponas*, or other Writ of Execution, and such rules shall have been duly served but obedience shall not have been paid thereto, an attachment shall issue for disobedience of such rule, whether the thing required by such rule shall or shall not have been done in the meantime.

Irregularity.

110. No application to set aside process or proceedings for irregularity shall be allowed unless made within a reasonable time, nor if the party applying has taken a fresh step after knowledge of the irregularity.

111. Where a summons is obtained to set aside proceedings for irregularity, the several objections intended to be insisted upon shall be stated therein.

112. In all cases where a rule is obtained to show cause why proceedings should not be set aside for irregularity with costs, and such rule is afterwards discharged generally, without any special direction upon the matter of costs, it is to be understood as discharged with costs.

Affidavits.

113. Every affidavit to be hereafter used in any cause or civil proceeding in this court shall be drawn up in the first person and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit, or part of an affidavit, substantially departing from this rule.

114. The addition and true place of abode of every person making an affidavit shall be inserted therein.

115. In every affidavit made by two or more deponents, the names of the several persons making such affidavit shall be written in the jurat.

116. No affidavit shall be read or made use of in any matter depending in court, in the jurat of which there shall be any interlineation or erasure.

117. When any affidavit is sworn before the Registrar or any commissioner by any person *who from his or her signature appears to be illiterate*, the Registrar or commissioner taking such affidavit shall certify or state in the jurat that the affidavit was read in his presence to the party making the same, and that such party seemed perfectly to understand the same, and also that the said party wrote his or her mark or signature in the presence of the Registrar or commissioner taking the said affidavit.

118. No affidavit of service shall be deemed sufficient if sworn before the plaintiff's own attorney or his clerk.

119. The general hours for swearing all affidavits before the Registrar shall be from ten to eleven o'clock in the forenoon, but the Registrar may in his discretion take any affidavit at any other hour.

120. No rule which the Court has granted upon the foundation of any affidavit shall be of any force unless such affidavit shall have been actually made before such rule was moved for, and produced in Court at the time of making the motion.

Rules, summonses, and orders.

121. Every rule of Court shall be dated the day of the month and year on which the same is drawn up, without reference to any other time or date.

122. It shall not be necessary to issue more than one summons for attendance before the Registrar upon the same matter, and the party taking out such summons shall be entitled to an order on the return thereof unless cause is shown to the contrary.

123. If the opposite attorney shall not indorse on the summons his consent to an order, and shall not attend at the

return thereof or within a quarter of an hour thereafter, the order required may be made on an Affidavit of Service and Attendance of the Summons.

124. All written consents upon which orders for signing judgments are obtained shall be preserved in the Registrar's office.

125. In actions where the defendant has appeared by attorney, no such order shall be made unless the consent of the defendant be given by his attorney.

126. Where the defendant has not appeared, or has appeared in person, no such order shall be made unless the defendant attends the Registrar and gives his consent in person, except in a case where the defendant is a barrister, conveyancer, or attorney.

127. Rules to show cause shall be no stay of proceedings unless two days' notice of the motion shall have been served on the opposite party, except in the cases of rules for new trials, or to enter verdict or nonsuit, motion in arrest of judgment, or for judgment *non obstante veredicto*, or to set aside awards, or to enter a suggestion, or by the special direction of the Court.

Notices, service of, and of rules, pleadings, etc.

128. All notices required by these rules or by the practice of the court shall be in writing.

129. Where the residence of the plaintiff or defendant is unknown, or is not within the jurisdiction of the Court, rules, notices, and other proceedings may be stuck up in the Registrar's office, but not without previous leave of the Court.

130. It shall not be necessary to the regular service of a rule or order that the original rule or order should be shown, unless sight thereof be demanded, except in cases of attachment.

131. Service of notices, summonses, orders, rules, and other proceedings shall be made before six o'clock in the evening, except on Saturdays, when it shall be made before two o'clock in the afternoon. If made after six o'clock in the evening on any day except Saturday, the service shall be deemed as made on the following day, and if made after two o'clock in the afternoon on Saturday, the service shall be deemed as made on the following Monday.

Attachment.

132. Rules for attachment shall be absolute in the first instance in the following cases only, viz.:—First, for non-payment of costs on the Registrar's allocatur; secondly, against the Head Bailiff for not obeying a rule to return a writ.

Awards.

133. Where a rule to show cause is obtained to set aside an award, the several objections thereto intended to be insisted upon at the time of moving to make such rule absolute shall be stated in the rule to show cause.

134. Costs may be taxed on an award, notwithstanding the time for setting aside the award has not elapsed.

135. Application to set aside an award shall be made within one calendar month after the award is made and published to the parties.

Miscellaneous.

136. On a reference to the Registrar to ascertain the amount for which final judgment is to be signed, the Registrar's certificate shall be filed in the office when judgment is signed.

137. On every appointment made by the Registrar, the party on whom the same shall be served shall attend such appointment without waiting for a second, or in default thereof the Registrar may proceed *ex parte* on the first appointment.

138. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by the rules or

practice of this Court, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also.

139. In all causes in which there have been no proceedings for one year from the last proceeding had, the party, whether plaintiff or defendant, who desires to proceed, shall give fourteen days' notice to the other party of his intention to proceed. The summons of the Registrar, if no order be made thereupon, shall not be deemed a proceeding within this rule. Notice of trial, though afterwards countermanded, shall be deemed a proceeding within it.

140. In order to diminish as much as possible the costs arising from the copying of documents to accompany the briefs of counsel, the Registrar is to allow only the copying of such documents as he may consider necessary for the instruction of counsel, or for use at the trial.

141. The parties to suits and their attorneys shall be entitled to have the books or records of this Court searched any day (not being a holiday) during the office hours, upon application to the Registrar, who shall search or cause such books or records to be searched for the information required.

Counsel's fees.

142. In general, one counsel only will be allowed, but in questions of importance and difficulty two counsel may be allowed, and also a statement for, or conference with counsel to advise on evidence, and the retainer of one counsel and a consultation with counsel in the discretion of the Registrar.

143. The amount of fees to be allowed to counsel shall be in the discretion of the Registrar.

144. The costs of attendance by counsel before the Registrar on summons or motion shall in no case be allowed,

as between party and party, unless the Registrar shall certify for such allowance.

Witnesses' scale of allowance.

145. Witnesses' scale of allowance:—

	If from a Distance per day.						If residing within the City of Manchester or Borough of Salford.					
	£	s.	d.		£	s. d.	£	s.	d.		£	s. d.
Common witnesses, such as Journeymen, Labourers, etc.	0	5	0	to	0	7 6	0	2	6	to	0	5 0
Master Tradesmen, Yeomen, and Farmers	0	10	0	,,	0	15 0	0	7	6	,,	0	10 0
Auctioneers, Accountants, and Agents	0	10	6	,,	1	1 0	0	7	6	,,	1	1 0
Professional men...	0	0	0	,,	0	0 0	1	1	0	,,	0	0 0
Professional men, inclusive of all, except travelling expenses	2	2	0	,,	3	3 0	0	0	0	,,	0	0 0
Attorneys' or other Clerks	0	7	6	,,	1	1 0	0	5	0	,,	0	10 0
Engineers and Surveyors ...	1	1	0	,,	3	3 0	0	7	6	,,	1	1 0
Notaries	1	1	0	,,	0	0 0	1	1	0	,,	0	0 0
Police Inspectors	0	7	6	,,	0	10 0	0	5	0	,,	0	0 0
Police Constables	0	5	0	,,	0	7 6	0	3	0	,,	0	0 0
Females, according to station in life	0	3	6	,,	0	15 0	0	2	6	,,	0	10 0

For maps and plans in the discretion of the Registrar, not exceeding £3. 3*s*.

For travelling expenses the sum actually paid, but in no case to exceed per mile, one way, one shilling.

Esquires, gentlemen, merchants, and bankers are allowed one guinea conduct money with their subpœna, but they are not entitled to any daily allowance except after the first day, and then a reasonable sum for refreshments and conveyance where they reside within one mile from the Court. Where

they reside at a distance, one guinea per diem and travelling as above. If the witnesses attend in one cause only, they will be entitled to the full allowance. If they attend in more than one cause, they will be entitled to a proportionate part in each cause only.

Forms of proceedings and execution.

146. The forms of proceedings and of Writs of Execution contained in the Schedules of the General Rules of Practice of the Superior Courts of law at Westminster of Hilary Term 1853, and of Michaelmas Vacation 1854, may be adopted in the cases to which they are applicable, with such alterations as the nature of the action, the description of the Court, the character of the parties, or the circumstances of the case may render necessary, but any variance therefrom not being in matter of substance shall not affect their validity or regularity.

147. Upon every precipe for any writ, and upon every appearance, pleading, and other documents required by the rules and practice of the Court to be filed with the Registrar, or other proceedings taken in the Court, the plaintiff or defendant in any action, as the case may be, or their respective attorneys, shall, when the cause of action arises within the City of Manchester, state thereon in writing the words, "City District," and when the cause of action arises elsewhere within the Hundred of Salford, the words "Hundred District;" and shall also state thereon the amount of the plaintiff's claim if it be for any debt on simple contract or *indebitatus*, or the nature of the action, if of any other kind, and all such precipes, appearances, pleadings, and other documents or proceedings shall be written upon paper of such size and form as the Registrar may for the convenience of filing prescribe, and all papers intended to be filed with the Registrar shall be tendered in a clean and fit state for the Court, otherwise the Registrar shall refuse to receive the same.

Short title of Court.

148. In all proceedings in the Court subsequent to Writ of Summons, it shall suffice to describe the title of the Court as follows, that is to say, "In the Salford Hundred Court."

Interpretation of rules as to Judge and Registrar.

149. All the provisions in these rules respecting the Judge shall be deemed in the absence of the Judge to apply to his deputy, if any duly appointed by him, and all the provisions in these rules respecting the Registrar shall be deemed to apply to the deputy of such Registrar, or to the person, if any, duly appointed in that behalf.

General practice.

150. The practice, where no rules and orders apply to the contrary, shall be as nearly conformable as may be to the Rules and Practice of the Superior Courts at Westminster as the same now are or hereafter may be made or altered.

SCHEDULE A REFERRED TO IN THE FOREGOING RULES.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To C. D., of in the Hundred of Salford, in the County of Lancaster. We warn you that unless within twelve days after the service of this writ on you, inclusive of the day of such service, you obtain leave from our Court of Record for the Hundred of Salford, in the County of Lancaster, to appear, and do within that time appear, in our said Court, in an action at the suit of A. B., the said A. B. may proceed to judgment and execution.

Witness, etc.

Memorandum to be Subscribed on the Writ.

N.B.—This writ is to be served within six calendar months from the date hereof, or if renewed from the date of such renewal, including the day of such date and not afterwards.

[Indorsement.]

This writ was issued by E. F., of attorney for the plaintiff, or "This writ was issued in person by A. B. who resides at , [mention the city,

borough, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence."]

The plaintiff claims £ principal and interest [or £ balance of principal and interest] due to him as the payee [or indorsee] of a bill of exchange [or promissory note] of which the following is a copy: [here copy bill of exchange or promissory note, and all indorsements upon it] and also shillings for noting (if noting has been paid) and £ for costs. And if the amount thereof be paid to the plaintiff or to his attorney within four days from the service hereof further proceedings will be stayed.

NOTICE.

Take notice that if the defendant does not obtain leave from the Court or Registrar within twelve days of having been served with this writ, inclusive of the day of such service, to appear thereto, and does not within such time cause an appearance to be entered for him in the Court out of which this writ issues, the plaintiff will be at liberty at any time after the expiration of such twelve days to sign final judgment for any sum not exceeding the sum above claimed, and the sum of £ for costs, and issue execution for the same.

Leave to appear may be obtained on an application to the Court or Registrar at the Town Hall, in the City of Manchester, supported by affidavit showing that there is a defence to the action on the merits, or that it is reasonable that the defendant should be allowed to appear in the action.

INDORSEMENT TO BE MADE ON THE WRIT AFTER SERVICE THEREOF.

This writ was served by G. H. on C. D. [the defendant] on the day of 190

By G. H.

SCHEDULE B REFERRED TO IN THE FOREGOING RULES.

In the Salford Hundred Court,

Hundred of Salford, in the County of Lancaster, to Wit. } On the day of in the year of our Lord one thousand eight hundred and (day of signing judgment) A. B. in his own person [or by E. F., his attorney], sued out a writ against C. D., indorsed as follows: [here copy indorsement of plaintiff's claim].

And the said C. D. has not appeared. Therefore it is considered by the Court here that the said A. B. recover against the said C. D. £ together with £ for costs of suit.

Operation of rules.

These rules shall take effect on the first day of January 1869, inclusive of that day.

Made and signed this 16th day of October 1868.

HENRY W. WEST, JOSEPH KAY, } *Judges of the Court of Record for the Hundred of Salford, in the County of Lancaster.*

I approve of these rules, and do confirm and allow the same

G. HAYES.

October 30th, 1868.

CHAPTER LXIII.

Table of Court Fees.

	CLAIM					
	Not exceeding £5.		Not exceeding £20.		Exceeding £20.	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*
On issue of writ of summons	1	6	3	0	5	0
On signing judgment in default of appearance, including affidavit of service	1	6	3	0	5	0
On issue of writ of *Fieri Facias* (including warrant)	2	0	4	0	6	0
On issue of summons under Debtors' Act 1869 (the fee is charged on the actual amount for which the defendant is summoned, including copy and service and filing affidavit)	2	0	3	10	6	3
Mileage, extra per mile beyond one mile from the Registrar's offices	0	2	0	3	0	4
Appearance...	0	6	1	0	2	0
Additional for each defendant extra	0	3	0	6	1	0
Summons	0	6	1	0	2	0
Affidavit (filing)	0	6	1	0	2	0
Order	0	6	1	0	2	0
Filing each document	0	6	1	0	2	0
Subpœna *ad test*...	1	0	2	0	3	0
Subpœna *duces tecum*	1	6	3	0	5	0
Taxation	1	0	2	0	3	0
Reference fee, per hour	3	4	6	8	10	0

The table of fees to be taken by the Court is dated 6th May 1895, and the above extract is taken therefrom to facilitate the ordinary routine of office work.

CHAPTER LXIV.

Scales of Plaintiff's Costs on the County Court Scale.

The following are the scales of plaintiff's costs in the Salford Hundred Court:—

First Scale	above	£2	and not exceeding		£3
	,,	3	,,	,,	4
	,,	4	,,	,,	5
Second Scale for Defendant's Costs	,,	5	,,	,,	6
	,,	6	,,	,,	7
	,,	7	,,	,,	8
	,,	8	,,	,,	9
	,,	9	,,	,,	10
Second Scale	,,	10	,,	,,	20
Third Scale	,,	20	,,	,,	50

In claims less than £10 the plaintiff cannot recover more for costs than he could have recovered in the County Court.

In cases where the claim exceeds £2 and does not exceed £5, and where an ordinary summons would issue in the County Court, the plaintiff cannot recover more than on the following scale, even though the cause is tried at the Assize Courts:—

	s.	*d.*
1. Particulars of claim and copies	4	0
2. Plaint fee, one shilling in the pound on amount of claim and one shilling extra.		
3. Preparing for and attending trial	7	0
4. Hearing fee, two shillings in the pound on amount of claim.		
5. Paid fee to counsel	23	6
6. Paid witnesses (on the Salford Hundred Court Scale).		

Where action is referred (*in lieu of item 3*):—

	s.	d.
3. Preparing for and attending Court when action referred	3	0
Attending before Arbitrator	10	0
Attending Court entering judgment upon the award	3	0

Where a Default Summons could issue in the County Court the plaintiff is entitled as follows:—

1. (*In lieu of item 1.*) Particulars of claim and copies	7	0
7. Attending entering up judgment	3	4

In cases where the claim exceeds £5 and does not exceed £10 the plaintiff cannot recover more than on the following scale:—

	s.	d.
1. Particulars of claim, copies, and service	13	0
2. Plaint fee.		
3. Preparing for and attending trial	10	0
4. Hearing fee.		
5. Paid fee to counsel	23	6
6. Paid witnesses.		
7. Attending entering up judgment	3	4

Where action is referred (*in lieu of item 3*):—

Preparing for and attending Court when action referred	6	0
Attending before Arbitrator	15	0

(*In lieu of item 7*):—

Attending Court entering up judgment upon the award	6	0

No additional costs are allowed in actions where the claim does not exceed £10 where there is more than one defendant.

The above scales of costs are determined by the County Court Rules 1892, details in regard to which, and in fact in

regard to precedents of all County Court costs, can be found in Hough's "Handy Guide to County Court Costs," published by Stevens & Sons Limited.

In all actions where the sum recovered does not exceed £2 no costs are allowed. In actions where the claim exceeds £50 the scale of costs allowed may be the same as in the Supreme Court.

A successful defendant is entitled to tax his costs upon the Salford Hundred Court scale applicable to the amount of the plaintiff's claim.

CHAPTER LXV.

Plaintiff's Costs on Judgment After Trial.

The following are the three scales of costs in use in the Salford Hundred Court :—

First Scale ... ... Claims not exceeding £5.
Second Scale ... ... Claims not exceeding £20.
Third Scale ... ... Claims exceeding £20.

In practice the first scale is not now used for plaintiff's costs, owing to the rule that in cases under £10 the plaintiff cannot recover more than County Court costs. As the bill, if made out on the first scale of the Salford Hundred Court, invariably comes to more than County Court costs, it is usual to make out the bill on the County Court scale to save time.

Each item is numbered so that in the further precedents reference can be made to each particular item, thereby limiting the space used and simplifying same.

Plaintiff's Costs on Judgment after Trial.

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
1. Letter before action	0	1	0	0	2	0	0	3	0	Writ.
2. Circular letter to other defendants	0	0	6	0	1	0	0	1	0	
3. Instructions to sue	0	1	8	0	3	4	0	6	8	
4. Writ of summons and fee...	0	4	0	0	7	0	0	11	8	
5. Instructions for special indorsement	0	1	8	0	3	4	0	6	8	
6. Special indorsement	0	1	6	0	2	6	0	4	0	
7. Copy for service...	0	0	6	0	1	0	0	1	0	
8. Service thereof on each defendant	0	3	0	0	4	0	0	5	0	

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
9. Mileage (if above one mile from the Registrar's office), at per mile ...	0	0	6	0	0	9	0	1	0
If it is cheaper to serve the writ by an agent, only agent's charges will be allowed.									
10. Copy writ for service on defendant B	0	0	6	0	1	0	0	1	0
11. Service thereof on defendant B	0	3	0	0	4	0	0	5	0
If writ sent to an agent. 11a. Writing agent with writ and copy and instructions as to service on defendant B	0	1	0	0	2	0	0	3	0
11a. Paid his charges, including affidavit, etc., and correspondence	0	10	0	0	12	0	0	15	0
11a. Mileage to at per mile	0	0	6	0	0	9	0	1	0
12. If writ served at a distance, and not in the same town where defendant A resides, mileage, at per mile	0	0	6	0	0	9	0	1	0
Affidavit of service. 13. Affidavit of service	0	1	8	0	3	4	0	5	0
14. Attending to be sworn ...	0	1	0	0	2	0	0	3	0
15. Paid oath	0	0	6	0	1	0	0	1	0
16. Notice to plead, copy, and service	0	1	0	0	2	0	0	3	0
Application to sign judgment under Order 14. 17. Instructions for affidavit in support of application to sign judgment under Order 14		*nil*		0	3	4	0	6	8
18. Drawing and engrossing same		*nil*		0	3	4	0	5	0
19. Preparing exhibit (if any)		*nil*		0	0	6	0	1	0
20. Attending deponent to be sworn		*nil*		0	2	0	0	3	0
21. Paid oath		*nil*		0	1	0	0	1	0
22. Paid exhibit (if any)		*nil*		0	1	0	0	1	0

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
23. Copy affidavit for the defendant's solicitor, per folio		*nil*		0	0	3	0	0	4	
24. Paid filing affidavit		*nil*		0	1	0	0	2	0	
25. Summons for leave to enter judgment copy and service, with copy affidavit		*nil*		0	4	0	0	6	0	
26. Paid for same		*nil*		0	1	0	0	2	0	
27. Mileage to at per mile		*nil*		0	0	9	0	1	0	
28. Attending summons, same adjourned until		*nil*		0	2	0	0	3	0	
29. Perusing defendant's affidavit in reply		*nil*		0	3	4	0	6	8	
30. Attending adjourned summons when order made to defend		*nil*		0	2	0	0	3	0	
31. Paid for order		*nil*		0	1	0	0	2	0	
32. Copy and service		*nil*		0	2	0	0	3	0	
33. Mileage to at per mile		*nil*		0	0	9	0	1	0	Directions.
34. Summons for directions, copy, and service	0	2	0	0	4	0	0	6	0	
35. Paid for same	0	0	6	0	1	0	0	2	0	
36. Attending summons, order made	0	1	0	0	2	0	0	3	0	
37. Paid for order	0	1	0	0	2	0	0	3	0	
38. Copy and service	0	1	0	0	2	0	0	3	0	
39. Attending defendant's solicitor for consent for further time to deliver statement of claim ...	0	1	0	0	2	0	0	3	0	Application for time to deliver statement of claim.
40. Notice under order for directions for further time to deliver statement of claim, copy, and service	0	1	6	0	3	0	0	5	0	Application under order for directions.
41. Paid for same	0	0	6	0	1	0	0	2	0	
42. Attending court thereon, order made	0	1	0	0	2	0	0	3	0	
43. Paid for order	0	0	6	0	1	0	0	2	0	

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
44. Copy and service	0	1	0	0	2	0	0	3	0
Only one application for time will be allowed as against the defendant, unless it is otherwise ordered.									
Statement of claim. 45. Instructions for statement of claim (if necessary) ...	0	1	8	0	3	4	0	6	8
46. Drawing same	0	1	8	0	3	4	0	6	8
47. Or, per folio	0	0	6	0	0	8	0	1	0
48. Fee to counsel to settle ...		*nil*		1	3	6	1	3	6
49. Attending him		*nil*		0	3	4	0	6	8
50. Copy for the printer, at per folio (if necessary) ...	0	0	2	0	0	3	0	0	4
51. Examining proof print, at per folio...	0	0	2	0	0	2	0	0	2
52. Paid printer's charges, not exceeding per folio ...	0	1	0	0	1	0	0	1	0
These charges include all attendances on the printer. In actions to recover a sum not exceeding £20, no more costs will be allowed than if such pleadings had been written.									
53. Copy statement to file, at per folio...	0	0	2	0	0	3	0	0	4
54. Paid filing same...	0	0	6	0	1	0	0	2	0
55. Copy statement to deliver, at per folio	0	0	2	0	0	3	0	0	4
56. *Notice of filing same, copy, and service, with copy statement	0	1	0	0	2	0	0	3	0
57. *Notice to plead, copy, and service	0	1	0	0	2	0	0	3	0
Defendant's application for time. 58. Attending each summons or application for further time for defendant to deliver statement of defence	0	1	0	0	2	0	0	3	0

* NOTE.—These notices must be amalgamated where practicable.

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
59. Perusing statement of defence and counterclaim (if any)		*nil*		0	3	4	0	6	8	Perusing statement of defence.
60. Demand on defendant's solicitor for copies of statement of defence (when printed), and service thereof	0	1	0	0	2	0	0	3	0	
61. Paid defendant's solicitor for copies—1d. per folio for first copy, and ½d. others. Omit the last two items if the statement is not printed.										
62. Drawing and engrossing authority to receive money out of court (if money paid into court), and receipt per folio	0	0	2	0	0	3	0	0	4	Authority to receive money out of court.
63. Attending plaintiff for his signature thereto	0	1	0	0	2	0	0	3	0	
64. Attending to receive money out of court, and giving receipt for same	0	1	0	0	2	0	0	3	0	
65. Paid fee thereon	0	1	0	0	2	0	0	3	0	
66. Summons for particulars of defendant's set-off, copy, and service	0	2	0	0	4	0	0	6	0	Application for particulars of set-off.
67. If by notice for directions...	0	1	6	0	3	0	0	5	0	
68. Paid for same	0	0	6	0	1	0	0	2	0	
69. Attending summons or application, order made ...	0	1	0	0	2	0	0	3	0	
70. Paid for order	0	0	6	0	1	0	0	2	0	
71. Copy, and service	0	1	0	0	2	0	0	3	0	
72. Perusing defendant's interrogatories		*nil*		0	3	4	0	6	8	Defendant's interrogatories, and plaintiff's application to strike out.
73. Summons to strike out some of the interrogatories (if necessary), copy, and service	0	2	0	0	4	0	0	6	0	

		First Scale.			Second Scale.			Third Scale.		
		£	s.	d.	£	s.	d.	£	s.	d.
	74. If by notice for directions...	0	1	6	0	3	0	0	5	0
	75. Paid	0	0	6	0	1	0	0	2	0
Attending summons by counsel.	76. Notice to defendant's solicitor of attending same by counsel		*nil*		0	2	0	0	3	0
	77. Instructions to counsel to attend		*nil*		0	3	4	0	6	8
	78. Copy interrogatories for him, at per folio		*nil*		0	0	3	0	0	4
	79. Fee to counsel to attend and clerk		*nil*		1	3	6	1	3	6
	80. Attending him		*nil*		0	3	4	0	6	8
	Counsel will only be allowed if a certificate is obtained that the application was a proper one for his attendance.									
	81. Attending summons or application when order made	0	1	0	0	2	0	0	3	0
	82. Paid for order	0	0	6	0	1	0	0	2	0
	83. Copy and service	0	1	0	0	2	0	0	3	0
Affidavit in answer to interrogatories.	84. Instructions for affidavit in answer to interrogatories	0	1	8	0	3	4	0	6	8
	85. Drawing and engrossing same, per folio	0	0	6	0	0	8	0	1	0
	86. Attending deponent to be sworn	0	1	0	0	2	0	0	3	0
	87. Paid oath	0	0	6	0	1	0	0	1	0
	88. Paid filing	0	0	6	0	1	0	0	2	0
	89. Notice of filing copy and service	0	1	0	0	2	0	0	3	0
Defendant's application for a further affidavit in answer.	90. The defendant's solicitor having served a summons or notice for a further and better answer to interrogatories, notice to him of attendance by counsel		*nil*		0	2	0	0	3	0

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
91. Instructions to counsel to attend		*nil*		0	3	4	0	6	8	
92. Copy affidavit in answer to interrogatories for him, per folio...		*nil*		0	0	3	0	0	4	
93. Fee to counsel to attend and clerk		*nil*		1	3	6	1	3	6	
94. Attending him		*nil*		0	3	4	0	6	8	
95. Attending summons when no order made	0	1	0	0	2	0	0	3	0	
96. Attending paying £5 into court as security to abide further order...	0	1	0	0	2	0	0	3	0	
97. Paid fee	0	1	0	0	2	0	0	3	0	
98. Instructions for interrogatories (when necessary)	0	1	8	0	3	4	0	6	8	Plaintiff's interrogatories, and defendant's answer.
99. Drawing same, per folio ...	0	0	6	0	0	8	0	1	0	
100. Fee to counsel to settle ...		*nil*		1	3	6	1	3	6	
101. Attending him...		*nil*		0	3	4	0	6	8	
102. Copy interrogatories for service, at per folio ...	0	0	2	0	0	3	0	0	4	
103. Attending to deliver ...	0	1	0	0	2	0	0	3	0	
If an application to strike out some of the interrogatories is made by defendant, add similar charges to items 90 to 95.										
104. Attending searching for affidavit in answer to interrogatories	0	1	0	0	2	0	0	3	0	
105. Attending to bespeak, and afterwards for office copy affidavit in answer to interrogatories (if necessary)	0	1	0	0	2	0	0	3	0	
106. Paid for same, at per folio	0	0	3	0	0	4	0	0	6	
107. Perusing same...		*nil*		0	3	4	0	6	8	
108. Summons for further and better answer to plaintiff's interrogatories, copy, and service	0	2	0	0	4	0	0	6	0	

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
109. If by notice for directions	0	1	6	0	3	0	0	5	0
110. Paid	0	0	6	0	1	0	0	2	0
111. Notice to defendant's solicitor of intention to attend same by counsel, copy, and service... ...		*nil*		0	2	0	0	3	0
112. Instructions to counsel to attend.		*nil*		0	3	4	0	6	8
113. Copy affidavit in answer to interrogatories for him, per folio		*nil*		0	0	3	0	0	4
114. Fee to him and clerk ...		*nil*		1	3	6	1	3	6
115. Attending him...		*nil*		0	3	4	0	6	8
116. Attending summons when order made		*nil*		0	2	0	0	3	0
117. Paid for order		*nil*		0	1	0	0	2	0
118. Copy and service		*nil*		0	2	0	0	3	0
Plaintiff's application for further affidavit in answer. 119. Attending searching for affidavit in answer to interrogatories	0	1	0	0	2	0	0	3	0
120. Attending to bespeak, and afterwards for office copy affidavit in answer to interrogatories (if necessary)	0	1	0	0	2	0	0	3	0
121. Paid for same, at per folio	0	0	3	0	0	4	0	0	6
122. Perusing same...		*nil*		0	3	4	0	6	8
Plaintiff's application for discovery. 123. Summons for discovery of documents in defendant's possession, copy, and service	0	2	0	0	4	0	0	6	0
124. If by notice for directions	0	1	6	0	3	0	0	5	0
125. Paid	0	0	6	0	1	0	0	2	0
126. Attending paying £5 into court as security to abide further order...	0	1	0	0	2	0	0	3	0
127. Paid fee	0	1	0	0	2	0	0	3	0

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
128. Attending summons or application, order made	0	1	0	0	2	0	0	3	0	
129. Paid for order	0	0	6	0	1	0	0	2	0	
130. Copy and service	0	1	0	0	2	0	0	3	0	
131. Attending searching if affidavit filed	0	1	0	0	2	0	0	3	0	
132. Attending bespeaking and afterwards for office copy (if necessary)	0	1	0	0	2	0	0	3	0	
133. Paid for office copy, per folio	0	0	3	0	0	4	0	0	6	
134. Perusing same...		*nil*		0	3	4	0	6	8	
135. Notice of intention to inspect documents mentioned in defendant's affidavit...	0	1	0	0	2	0	0	3	0	Inspection of documents in defendant's possession.
136. Attending inspecting documents	0	1	8	0	3	4	0	5	0	
137. Or per hour, or fraction thereof after the first ...		*nil*		0	5	0	0	6	8	
The charges for notice and inspection will only be allowed if the Registrar is satisfied that there were sufficient reasons for the same.										
138. Attending defendant's summons or application for discovery of documents, order made ...	0	1	0	0	2	0	0	3	0	Defendant's application for discovery and inspection.
139. Instructions for affidavit of documents	0	1	8	0	3	4	0	6	8	
140. Drawing and engrossing same, at per folio... ...	0	0	6	0	0	8	0	1	0	
141. Attending deponent to be sworn	0	1	0	0	2	0	0	3	0	
142. Paid oath...	0	0	6	0	1	0	0	1	0	
143. Paid filing	0	0	6	0	1	0	0	2	0	
144. Notice of filing, copy, and service	0	1	0	0	2	0	0	3	0	

		First Scale.			Second Scale.			Third Scale.		
		£	s.	d.	£	s.	d.	£	s.	d.
Inspection of documents in plaintiff's possession.	145. Notice to defendant's solicitor, with appointment to inspect documents, copy, and service	0	1	0	0	2	0	0	3	0
	146. Attending producing documents for inspection ...	0	1	8	0	3	4	0	5	0
	147. Or per hour, or fraction thereof after the first ...		*nil*		0	5	0	0	6	8
Reply.	148. Instructions for reply where defendant sets up a counterclaim	0	1	8	0	3	4	0	6	8
	149. If statement of defence only	0	1	8	0	3	4	0	5	0
	150. Drawing same...	0	1	0	0	2	6	0	5	0
	151. Or, per folio	0	0	6	0	0	8	0	1	0
	152. Fee to counsel to settle, and clerk (when necessary)...		*nil*		1	3	6	1	3	6
	153. Attending him...		*nil*		0	3	4	0	6	8
	154. Copy for defendant, at per folio	0	0	2	0	0	3	0	0	4
	155. Copy to file, at per folio...	0	0	2	0	0	3	0	0	4
	156. Paid filing	0	0	6	0	1	0	0	2	0
	157. Notice thereof, copy, and service	0	1	0	0	2	0	0	3	0
Notice of trial.	158. Notice of trial, copy, and service	0	1	0	0	2	0	0	3	0
Pleadings.	159. Two copies of pleadings for the court, at per folio ...	0	0	2	0	0	3	0	0	4
Setting down action for trial.	160. Attending to set down action for trial and lodge pleadings	0	1	0	0	2	0	0	3	0
	161. Paid fees	0	3	4	0	6	8	0	10	0
	162. Precept and paid fee summoning jury	0	1	6	0	3	0	0	5	6
	163. Fee for jurymen on trial...	0	3	0	0	4	0	0	6	0
	164. Attending for jury list ...	0	1	0	0	2	0	0	3	0
	165. Copy of the jury list (when required)	0	0	6	0	1	0	0	1	0

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.	
166. Attending to search if action marked "defended," when found it was...	0	1	0	0	2	0	0	3	0	Searching if action marked "defended."
167. Drawing retainer, and attending counsel therewith (if action special)...		*nil*			*nil*		0	6	8	Retainer.
168. Fee to him and clerk ...		*nil*			*nil*		1	3	6	
169. Instructions to counsel to advise on evidence (if action special)		*nil*			*nil*		0	6	8	Advice on evidence.
170. Fee to counsel therewith and clerk		*nil*			*nil*		1	3	6	
171. Attending him...		*nil*		0	3	4	0	6	8	
172. Notice to produce, copy, and service	0	1	8	0	3	4	0	5	0	Plaintiff's notice to produce.
173. Affidavit of service, when notice to produce is not admitted	0	1	8	0	3	4	0	5	0	
174. Copy notice to annex, per folio	0	0	2	0	0	3	0	0	4	
175. Preparing exhibit		*nil*		0	0	6	0	1	0	
176. Attending to be sworn ...	0	1	0	0	2	0	0	3	0	
177. Paid oath and exhibit ...	0	1	0	0	2	0	0	2	0	
178. Paid filing	0	0	6	0	1	0	0	2	0	
179. Notice to inspect and admit, copy, and service	0	1	8	0	3	4	0	5	0	Plaintiff's notice to admit.
180. Attending defendant's solicitor giving inspection	0	1	8	0	3	4	0	5	0	
181. Or per hour, or fraction thereof after the first ...		*nil*		0	5	0	0	6	8	
182. Copy notice to inspect for admission, per folio ...	0	0	2	0	0	3	0	0	4	Admissions.
183. Attending defendant's solicitor on his signing admissions	0	1	0	0	2	0	0	3	0	
184. Affidavit verifying signature to admissions ...	0	1	8	0	3	4	0	5	0	
185. Preparing exhibit		*nil*		0	0	6	0	1	0	

		First Scale.			Second Scale.			Third Scale.		
		£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
	186. Paid oath and exhibit ...	0	1	0	0	2	0	0	2	0
	187. Paid filing	0	0	6	0	1	0	0	2	0
Admission of facts.	188. Notice to admit facts ...	0	1	8	0	3	4	0	5	0
	189. Affidavit of service of notice (if necessary) ...	0	1	8	0	3	4	0	5	0
	190. Copy notice to annex, per folio	0	0	2	0	0	3	0	0	4
	191. Preparing exhibit		*nil*		0	0	6	0	1	0
	192. Attending to be sworn ...	0	1	0	0	2	0	0	3	0
	193. Paid oath and exhibit ...	0	1	0	0	2	0	0	2	0
	194. Paid filing	0	0	6	0	1	0	0	2	0
Defendant's notice to produce and admit.	195. Perusing defendant's notice to produce		*nil*		0	3	4	0	6	8
	196. The like notice to inspect and admit		*nil*		0	3	4	0	6	8
	197. Attending inspecting defendant's documents ...	0	1	8	0	3	4	0	5	0
	198. Or per hour, or fraction thereof from the first ...		*nil*		0	5	0	0	6	8
	199. Attending signing admissions	0	1	0	0	2	6	0	3	4
	200. Perusing defendant's notice to admit facts ...		*nil*		0	3	4	0	6	8
	201. Drawing admissions and copy for service, per folio each	0	0	2	0	0	3	0	0	4
Subpœna *ad test* and service.	202. Subpœna *ad test*	0	1	8	0	2	6	0	4	0
	203. Paid issuing for every three names	0	1	0	0	2	0	0	3	0
	204. Copy and service on each witness, exclusive of conduct money	0	3	0	0	4	0	0	5	0
	205. Mileage or agency, as on service of writ of summons.									
	206. Conduct money.									
Subpœna *duces tecum* and service.	207. Subpœna *duces tecum* (each)	0	2	0	0	3	6	0	5	0

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
208. Paid issuing	0	1	6	0	3	0	0	5	0	
209. Copy and service on each witness, exclusive of conduct money	0	3	0	0	4	0	0	5	0	
210. Mileage or agency, as before										
211. Conduct money.										
212. Instructions for brief ...	0	3	4	0	6	8	0	13	4	Brief and consultation.
For such brief such other fees may be allowed as the Registrar shall think fit, having regard to all the circumstances of the case, and to other allowances (if any) for attendances on witnesses and procuring evidence.										
213. Drawing same (case and proofs only), at per folio		*nil*			*nil*		0	1	0	
214. Fair copy for counsel (including pleadings, etc.), at per folio		*nil*			*nil*		0	0	4	
215. Drawing brief on lower scales (including pleadings, etc.), and copy ...	0	6	8	0 13 4 to 1 10 0				*nil*		
216. Copy particulars of plaintiff's claim to annex (if any), per folio	0	0	2	0	0	3	0	0	4	
217. The like, of defendant's set-off, per folio	0	0	2	0	0	3	0	0	4	
218. The like, plaintiff's notice to produce, per folio ...	0	0	2	0	0	3	0	0	4	
219. The like, plaintiff's notice to inspect, per folio ...	0	0	2	0	0	3	0	0	4	
220. The like, defendant's notice to produce, per folio	0	0	2	0	0	3	0	0	4	
221. The like, defendant's notice to inspect, per folio	0	0	2	0	0	3	0	0	4	
222. The like, any other proper and necessary document, per folio	0	0	2	0	0	3	0	0	4	

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
223. Attending counsel with brief	0	1	8	0	3	4	0	6	8
224. *Paid his fee and clerk (if undefended)	1	3	6	1	3	6	2	4	6
225. *Paid his fee and clerk (if defended)	1	3	6	2	4	6	3	5	6
226. *If case one of importance and difficulty and two counsel are engaged, fee to senior counsel and clerk		*nil*		2	4	6	3	5	6
227. Attending him...		*nil*		0	3	4	0	6	8
228. *Fee to junior counsel and clerk		*nil*		1	3	6	2	4	6
229. Attending him...		*nil*		0	3	4	0	6	8
230. Attending fixing consultation		*nil*		0	3	4	0	6	8
231. *Consultation fee to senior counsel and clerk... ...		*nil*			*nil*		2	4	6
232. *Consultation fee to junior counsel and clerk... ...		*nil*			*nil*		1	6	0
* In cases where there is only one counsel, a conference will be allowed (if had) on the highest scale only.									
233. Attending him fixing consultation		*nil*		0	3	4	0	6	8
234. Attending consultation ...		*nil*		0	6	8	0	13	4
Notices to witnesses. 235. Writing plaintiff to attend trial	0	1	0	0	2	0	0	3	0
236. Circular letters to other witnesses	0	0	6	0	1	0	0	1	0
Only allowed when it is a saving of expense to the other side by preventing the attendance of witnesses on days when they would be chargeable.									

	First Scale.			Second Scale.			Third Scale.			
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	
237. Attending court on the trial of an action, if defended, where the residence or place of business of the solicitor is within the City of Manchester or Borough of Salford ...	0	6	8	0	13	4	1	1	0	Attending trial.
238. If undefended	0	3	4	0	6	8	0	13	4	
239. Attending court on any other day than the day of trial, if defended, where the residence or place of business of the solicitor is within the City of Manchester or Borough of Salford, and the action is in the list but not tried	0	2	6	0	5	0	0	10	0	
240. If undefended	0	1	8	0	3	4	0	6	8	
241. Attending court on the trial of an action, where the residence or place of business of the solicitor is not within the City of Manchester or Borough of Salford, per day ...	0	6	8	1	1	0	1	10	0	
242. Travelling expenses—the amount actually and reasonably expended, but in no case to exceed 1s. per mile, one way.										
243. Expenses per day		*nil*		0	7	6	0	10	6	
244. Paid court fees.										
245. Attending for certificate for entry of judgment ...	0	1	0	0	2	0	0	3	0	Judgment
246. Paid for same	0	1	0	0	3	0	0	5	0	
247. Drawing judgment	0	1	0	0	2	0	0	3	0	
248. Entering same...	0	1	0	0	2	0	0	3	0	
249. Paid signing	0	1	0	0	2	0	0	3	0	

		First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Affidavit of increase.	250. Drawing and engrossing affidavit of increase, per folio (if required)	0	0	6	0	0	8	0	1	0
	251. Attending swearing same	0	1	0	0	2	0	0	3	0
	252. Paid oath...	0	0	6	0	1	0	0	1	0
	253. Paid filing	0	0	6	0	1	0	0	2	0
	254. Copy affidavit for the defendant's solicitor, per folio	0	0	2	0	0	3	0	0	4
Taxation of costs.	255. Drawing bill of costs and copy for taxation	0	1	0	0	2	0	0	3	0
	256. If exceeding three folios, not counting figures, additional, per folio	0	0	2	0	0	3	0	0	4
	257. Copy for defendant's solicitor, per folio... ...	0	0	2	0	0	3	0	0	4
	258. Notice of taxing, copy, and service...	0	1	0	0	2	0	0	3	0
	259. Attending taxing	0	1	8	0	3	4	0	6	8
	260. On the higher scale, the Registrar may allow in his discretion		*nil*			*nil*		0	10	0
									or	
								0	13	4
	261. Paid taxing, not exceeding six folios	0	1	0	0	2	0	0	3	0
	262. For every additional three folios, or less...	0	0	6	0	1	0	0	1	6
	263. Attending on settlement of debt and costs	0	1	0	0	2	0	0	3	0
Letters, etc.	264. †Letters and messengers (proper), each term ...	0	1	8	0	3	4	0	6	8
	265. †Letters and messengers (agency), each term ...	0	3	4	0	6	8	0	10	0
Payments to witnesses.	Paid witnesses as follows :— Here give the name, address, and description of each witness, with the respective amounts paid.									

* The allowance of fees to counsel must necessarily rest in the discretion of the Registrar, but the above may be taken as a general guide. In cases of difficulty or importance two counsel will be allowed on the second and third

scales, and a retainer to one counsel on the third scale, and a consultation or conference with counsel in cases on the third or highest scale.

† A general fee for letters and messengers will be allowed after Statement of Claim, in all cases in which the solicitor would be entitled to a sitting's fee in the Supreme Court (see below).

When copies of affidavits in opposition are required by plaintiff or defendant, office copies must be taken.

SITTINGS.

Hilary.—11th January to Wednesday before Easter.
Easter.—Tuesday after Easter week to Friday before Whit-Sunday.
Trinity.—Tuesday after Whit-week to 12th August.
Michaelmas.—24th October to 21st December.

The following tables show at a glance the amount to be charged for drawing bill of costs and copy for taxation and the amount to be paid for taxing fee on any bill of 24 folios or less :—

DRAWING BILL OF COSTS AND COPY FOR TAXATION.

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
3 folios or under	0	1	0	0	2	0	0	3	0
4 ,, ,, ...	0	1	2	0	2	3	0	3	4
5 ,, ,, ...	0	1	4	0	2	6	0	3	8
6 ,, ,, ...	0	1	6	0	2	9	0	4	0
7 ,, ,, ...	0	1	8	0	3	0	0	4	4
8 ,, ,, ...	0	1	10	0	3	3	0	4	8
9 ,, ,, ...	0	2	0	0	3	6	0	5	0
10 ,, ,, ...	0	2	2	0	3	9	0	5	4
11 ,, ,, ...	0	2	4	0	4	0	0	5	8
12 ,, ,, ...	0	2	6	0	4	3	0	6	0
13 ,, ,, ...	0	2	8	0	4	6	0	6	4
14 ,, ,, ...	0	2	10	0	4	9	0	6	8
15 ,, ,, ...	0	3	0	0	5	0	0	7	0
16 ,, ,, ...	0	3	2	0	5	3	0	7	4
17 ,, ,, ...	0	3	4	0	5	6	0	7	8

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
18 folios or under	0	3	6	0	5	9	0	8	0
19 ,, ,, ...	0	3	8	0	6	0	0	8	4
20 ,, ,, ...	0	3	10	0	6	3	0	8	8
21 ,, ,, ...	0	4	0	0	6	6	0	9	0
22 ,, ,, ...	0	4	2	0	6	9	0	9	4
23 ,, ,, ...	0	4	4	0	7	0	0	9	8
24 ,, ,, ...	0	4	6	0	7	3	0	10	0

Taxing Fee.

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
Folios 6, or under	0	1	0	0	2	0	0	3	0
,, 7, 8, or 9	0	1	6	0	3	0	0	4	6
,, 10, 11, or 12	0	2	0	0	4	0	0	6	0
,, 13, 14, or 15	0	2	6	0	5	0	0	7	6
,, 16, 17, or 18	0	3	0	0	6	0	0	9	0
,, 19, 20, or 21	0	3	6	0	7	0	0	10	6
,, 22, 23, or 24	0	4	0	0	8	0	0	12	0

CHAPTER LXVI.

Defendant's Costs on Judgment After Trial.

A Defendant is entitled to his costs of action upon the Salford Hundred Court scale applicable to the amount for which the action was brought, and the reference to costs on the County Court scale in actions for a less sum than £10 does not apply to him.

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
1. Instructions to defend ...	0	1	8	0	3	4	0	6	8	
2. Appearance	0	1	0	0	1	6	0	2	0	Appearance.
3. For each additional defendant	0	0	6	0	0	6	0	1	0	
4. Duplicate appearance ...	0	0	6	0	1	0	0	1	0	
5. Attending to enter same ...	0	1	0	0	2	0	0	3	0	
6. Paid fee	0	0	6	0	1	0	0	2	0	
7. If more than one defendant, extra fee for each additional defendant ...	0	0	3	0	0	6	0	1	0	
8. Notice of appearance, copy, and service, with duplicate appearance	0	1	0	0	2	0	0	3	0	
9. Attending summons for directions	0	1	0	0	2	0	0	3	0	
10. Perusing statement of claim	*nil*			0	3	4	0	6	8	
11. Attending to pay money in court, and obtaining receipt	0	1	0	0	2	0	0	3	0	Payment into court.
12. Paid fee	0	1	0	0	2	0	0	3	0	
13. Notice thereof, copy, and service	0	1	0	0	2	0	0	3	0	
14. Perusing plaintiff's affidavit in support of application for judgment under Order 14	*nil*			0	3	4	0	6	8	Application by plaintiff to sign judgment under Order 14, Rule 1.

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
15. Attending summons, same adjourned for affidavit in answer	0	1	0	0	2	0	0	3	0
16. Instructions for affidavit of defendant in answer ...	0	1	8	0	3	4	0	6	8
17. Drawing and engrossing same	0	1	8	0	3	4	0	5	0
18. Or, per folio	0	0	6	0	0	8	0	1	0
19. Attending deponent to be sworn	0	1	0	0	2	0	0	3	0
20. Paid oath	0	0	6	0	1	0	0	1	0
21. Paid filing	0	0	6	0	1	0	0	2	0
22. Attending adjourned summons for leave to sign judgment when order refused, and leave given to defend	0	1	0	0	2	0	0	3	0
23. Attending giving plaintiff further time to deliver statement of claim ...	0	1	0	0	2	0	0	3	0
24. Attending plaintiff's application for further time to deliver statement of claim, order made ...	0	1	0	0	2	0	0	3	0
Plaintiff's application to amend statement of claim. 25. Attending plaintiff's application for leave to amend statement of claim on writ, or to add or strike out parties, order made	0	1	0	0	2	0	0	3	0
26. Instructions to appear for defendants added under order (if made)	0	1	8	0	3	4	0	6	8
27. Appearance	0	1	0	0	1	6	0	2	0
28. For each additional defendant	0	0	6	0	0	6	0	1	0
29. Duplicate appearance ...	0	0	6	0	1	0	0	1	0
30. Attending to enter same ...	0	1	0	0	2	0	0	3	0
31. Paid fee	0	0	6	0	1	0	0	2	0

	First Scale.			Second Scale.			Third Scale.			
	£	s.	d.	£	s.	d.	£	s.	d.	
32. If more than one defendant, extra fee for each additional defendant ...	0	0	3	0	0	6	0	1	0	
33. Notice of appearance, copy, and service, with duplicate appearance	0	1	0	0	2	0	0	3	0	
34. Perusing amended statement of claim		*nil*		0	3	4	0	6	8	
35. Demand for printed copies (when necessary)...		*nil*		0	2	0	0	3	0	
36. Paid plaintiff's solicitor for same		*nil*								
37. Attending plaintiff's solicitor, obtaining further time to file and deliver statement of defence and counterclaim...	0	1	0	0	2	0	0	3	0	Application for time.
38. Summons for further time to file and deliver statement of defence and counterclaim, copy, and service...	0	2	0	0	4	0	0	6	0	
39. If by notice for directions	0	1	6	0	3	0	0	5	0	
40. Paid	0	0	6	0	1	0	0	2	0	
41. Attending summons or application, order made ...	0	1	0	0	2	0	0	3	0	
42. Paid for order	0	0	6	0	1	0	0	2	0	
43. Copy and service thereof ...	0	1	0	0	2	0	0	3	0	
Only one application for time will be allowed as against the plaintiff, unless it is otherwise ordered.										
44. Drawing and engrossing affidavit of service of summons or notice (if necessary)	0	1	8	0	3	4	0	5	0	Affidavit of service of summons and attendance.
45. Attending to swear and file same	0	1	0	0	2	0	0	3	0	
46. Preparing exhibit		*nil*		0	0	6	0	1	0	
47. Paid oath and exhibit ...	0	1	0	0	2	0	0	2	0	

		First Scale.			Second Scale.			Third Scale.		
		£	s.	d.	£	s.	d.	£	s.	d.
	48. Paid filing affidavit	0	0	6	0	1	0	0	2	0
Application for particulars.	49. Summons for further and better particulars of plaintiff's claim, copy, and service	0	2	0	0	4	0	0	6	0
	50. If by notice for directions...	0	1	6	0	3	0	0	5	0
	51. Paid	0	0	6	0	1	0	0	2	0
	52. Attending summons or application, order made ...	0	1	0	0	2	0	0	3	0
	53. Paid for order	0	0	6	0	1	0	0	2	0
	54. Copy and service	0	1	0	0	2	0	0	3	0
Statement of defence and counterclaim.	55. Instructions for statement of defence and counterclaim	0	1	8	0	3	4	0	6	8
	56. Drawing same	0	1	8	0	3	4	0	6	8
	57. Or, per folio	0	0	6	0	0	8	0	1	0
	58. Fee to counsel to settle, and clerk		*nil*		1	3	6	1	3	6
	59. Attending him		*nil*		0	3	4	0	6	8
	60. Copy statement of defence and counterclaim, to deliver, at per folio	0	0	2	0	0	3	0	0	4
	61. Copy statement of defence and counterclaim, to file, at per folio	0	0	2	0	0	3	0	0	4
	62. Paid filing	0	0	6	0	1	0	0	2	0
	63. Notice thereof, copy, and service, with copy statement of defence and counterclaim...	0	1	0	0	2	0	0	3	0
Plaintiff's application for particulars of set-off.	64. Attending plaintiff's summons or application for particulars of set-off or counterclaim, order made	0	1	0	0	2	0	0	3	0
	65. Drawing particulars and copy to deliver	0	1	0	0	2	0	0	3	4

	First Scale.			Second Scale.			Third Scale.			
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	
66. Or such amount as the Registrar shall consider reasonable, not exceeding, per folio...	0	0	3	0	0	4	0	0	6	
67. Attending to deliver same...	0	1	0	0	2	0	0	3	0	
68. Perusing affidavit of plaintiff in support of application to strike out counterclaim		*nil*		0	3	4	0	6	8	Plaintiff's application to strike out counterclaim.
69. Instructions for defendant's affidavit in opposition...	0	1	8	0	3	4	0	6	8	
70. Drawing and engrossing same, per folio	0	0	6	0	0	8	0	1	0	
71. Attending deponent to be sworn	0	1	0	0	2	0	0	3	0	
72. Paid oath	0	0	6	0	1	0	0	1	0	
73. Paid filing	0	0	6	0	1	0	0	2	0	
74. Attending summons or application, no order ...	0	1	0	0	2	0	0	3	0	
75. Plaintiff having served summons or application to strike out paragraphs and of the statement of defence as being vexatious and irrelevant, notice of defendant's intention to oppose same by counsel, copy, and service		*nil*		0	2	0	0	3	0	Plaintiff's application to strike out paragraphs in statement of defence.
Add the charges 68 to 73 for perusing affidavit, etc. (if any).										
76. Instructions to counsel to attend		*nil*		0	3	4	0	6	8	
77. Fee to him and clerk ...		*nil*		1	3	6	1	3	6	
78. Attending him		*nil*		0	3	4	0	6	8	
79. Copy affidavits for counsel, per folio...	0	0	2	0	0	3	0	0	4	
80. Attending summons or application, no order ...	0	1	0	0	2	0	0	3	0	

		First Scale.			Second Scale.			Third Scale.		
		£	s.	d.	£	s.	d.	£	s.	d.
	81. Summons for leave to amend statement of defence and counterclaim, copy, and service	0	2	0	0	4	0	0	6	0
	82. If by notice for directions...	0	1	6	0	3	0	0	5	0
	83. Paid	0	0	6	0	1	0	0	2	0
	84. Attending summons or application, order made ...	0	1	0	0	2	0	0	3	0
Amendment of statement of defence and counterclaim.	85. Instructions to amend statement of defence and counterclaim...	0	1	8	0	3	4	0	6	8
	86. Drawing amendment ...	0	1	0	0	2	6	0	5	0
	87. Or, per folio	0	0	6	0	0	8	0	1	0
	88. Fee to counsel to settle, and clerk		*nil*		1	3	6	1	3	6
	89. Attending him		*nil*		0	3	4	0	6	8
	90. Fair copy amended statement to file, at per folio	0	0	2	0	0	3	0	0	4
	91. Paid filing same	0	0	6	0	1	0	0	2	0
	92. The like to deliver, at per folio	0	0	2	0	0	3	0	0	4
	93. Notice of filing same, copy, and service, with copy amended statement ...	0	1	0	0	2	0	0	3	0
Reply.	94. Reply having been delivered, perusing same		*nil*		0	3	4	0	6	8
Searching if action entered for trial.	95. Attending searching if action entered, and marking same "defended"... ...	0	1	0	0	2	0	0	3	0
Plaintiff's interrogatories and defendant's application to strike out.	*See Chapter 65*, Defendant's interrogatories and plaintiff's application to strike out.									
Attending summons by counsel.	*See Chapter 65*, Attending summons by counsel.									
Affidavit in answer to interrogatories.	*See Chapter 65*, Affidavit in answer to interrogatories.									
Application for a further affidavit in answer.	*See Chapter 65*, Application for a further affidavit in answer.									

	First Scale. £ s. d.	Second Scale. £ s. d.	Third Scale. £ s. d.	
See Chapter 65, Plaintiff's interrogatories and defendant's answer.				Defendant's interrogatories and plaintiff's answer.
See Chapter 65, Plaintiff's application for discovery.				Defendant's application for discovery.
See Chapter 65, Inspection of documents.				Inspection of documents.
See Chapter 65, Defendant's application for discovery and inspection.				Plaintiff's application for discovery and inspection.
See Chapter 65, As to retainer.				Retainer.
See Chapter 65, Advice on evidence.				Advice on evidence.
See Chapter 65, Plaintiff's notice to produce.				Defendant's notice to produce.
See Chapter 65, Plaintiff's notice to admit.				Defendant's notice to admit.
See Chapter 65, Admissions.				Admissions.
See Chapter 65, Defendant's notice to produce and admit.				Plaintiff's notices to produce and admit.
See Chapter 65, Subpœnas and services.				Subpœnas and services.
See Chapter 65, Brief and consultation.				Brief and consultation.
See Chapter 65, Notices to witnesses.				Notices to witnesses.
See Chapter 65, Attending trial.				Attending trial.
See Chapter 65, Judgment.				Judgment.
See Chapter 65, Affidavit of increase.				Affidavit of increase.
See Chapter 65, Taxation of costs, etc.				Taxation of costs.
See Chapter 65, Letters, etc.				Letters, etc.
See Chapter 65, Payments to witnesses.				Payments to witnesses.

CHAPTER LXVII.

Miscellaneous Costs.

Costs of Final Judgment for Want of Appearance against Two or more Defendants.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Costs of judgment against defendant A ... (Insert the ordinary allowance against one defendant.)						
Copy writ for service on defendant B... ...	0	1	0	0	1	0
Service thereof on defendant B	0	4	0	0	5	0
If writ served at a distance, and not in the same town where defendant A resides, mileage, at per mile	0	0	9	0	1	0
If writ sent to an Agent.						
Writing agent with writ, and copy, and instructions as to service on defendant B	0	2	0	0	3	0
Paid his charges, including affidavit, etc., and correspondence	0	12	0	0	15	0
Mileage to at per mile...	0	0	9	0	1	0
Bill of costs and copy	0	2	0	0	3	0
Attending taxing	0	2	0	0	3	0
Paid	0	2	0	0	3	0

Final Judgment for Want of Appearance—Substituted Service of Writ.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Letter before action (if written)	0	2	0	0	3	0
Instructions to sue	0	3	4	0	6	8
Writ of summons and fee	0	7	0	0	11	8
Instructions for special indorsement	0	3	4	0	6	8
Special indorsement	0	2	6	0	4	0
Copy for service	0	1	0	0	1	0

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attendances at defendant's residence, endeavouring to effect personal service on defendant	0	4	0	0	6	0
Mileage to at per mile	0	0	9	0	1	0
*Drawing and engrossing affidavit of facts, to ground application for order for substituted service, at per folio... ...	0	0	8	0	1	0
Attending to swear and file same	0	2	0	0	3	0
Paid oath	0	1	0	0	1	0
If writ sent to an Agent.						
Letter to agent with writ, copy, and instructions...	0	2	0	0	3	0
Paid agent's charges for service of writ, including affidavit and correspondence.						
Attending Registrar, when order made for substituted service	0	2	0	0	3	0
Paid for order	0	1	0	0	2	0
Paid filing affidavit	0	1	0	0	2	0
Copy order for service...	0	1	0	0	1	0
Copy writ for service, per folio	0	0	3	0	0	4
Service of copy writ and order at defendant's residence	0	4	0	0	5	0
Mileage or agency (if necessary).						
Affidavit of service of copy writ and order at defendant's residence...	0	3	4	0	5	0
Copy writ to annex, per folio	0	0	3	0	0	4
Attending to swear same	0	2	0	0	3	0
Paid oath	0	1	0	0	1	0
Preparing two exhibits	0	1	0	0	2	0
Paid exhibits	0	2	0	0	2	0
Drawing judgment	0	2	0	0	3	0
Entering same	0	2	0	0	3	0

* The affidavit and application should be made immediately after reasonable efforts have been made to effect personal service, and the plaintiff will be entitled to sign judgment at the expiration of eight days from the service of the copy writ and order for substituted service.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Paid fee and filing affidavit of service ...	0	3	0	0	5	0
Bill of costs and copy	0	2	0	0	3	0
Attending taxing	0	2	0	0	3	0
Paid taxing	0	2	0	0	3	0
Attending on settlement of debt and costs ...	0	2	0	0	3	0
Letters and messengers (proper)	0	1	0	0	2	0
,, ,, (agency)	0	2	0	0	4	0

Plaintiff's Costs on Order to Sign Judgment under Order 14.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
See items 1 to 29, Chapter 65.						
30. Attending adjourned summons when order made	0	2	0	0	3	0
Or where the opposite party does not attend the summons, and in lieu of items 28 to 30.						
Attending summons—defendant's solicitor did not attend	0	2	0	0	3	0
Affidavit of service of summons, and attendance upon same	0	3	4	0	5	0
Paid oath	0	1	0	0	1	0
Preparing exhibit on summons	0	0	6	0	1	0
Paid marking same	0	1	0	0	1	0
Paid filing affidavit	0	1	0	0	2	0
Attending for order	0	2	0	0	3	0
Paid for same	0	1	0	0	2	0
Copy and service...	0	2	0	0	3	0
Mileage to at per mile... ...	0	0	9	0	1	0
31. Drawing judgment	0	2	0	0	3	0
32. Entering same	0	2	0	0	3	0
33. Paid	0	2	0	0	3	0
34. Bill of costs and copy	0	2	0	0	3	0
35. Copy for defendant's solicitor, per folio	0	0	3	0	0	4

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
36. Notice of taxing	0	2	0	0	3	0
37. Attending taxing	0	2	0	0	3	0
38. Paid taxing	0	2	0	0	3	0
39. Attending on settlement of debt and costs	0	2	0	0	3	0
40. Letters, etc., (proper)	0	3	4	0	6	8
41. ,, (agency)	0	6	8	0	10	0

JUDGMENT FOR WANT OF STATEMENT OF DEFENCE.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Commence with the usual charges 1 to 16, in Chapter 65, and then continue as follows :—						
17. Defendant having entered appearance but not having filed and delivered defence—drawing judgment	0	2	0	0	3	0
18. Entering same	0	2	0	0	3	0
19. Paid	0	2	0	0	3	0
20. Drawing bill of costs and copy	0	2	0	0	3	0
21. Copy for defendant's solicitor, per folio	0	0	3	0	0	4
22. Notice of taxing, copy, and service ...	0	2	0	0	3	0
23. Attending taxing	0	2	0	0	3	0
24. Paid taxing	0	2	0	0	3	0
25. Attending on settlement	0	2	0	0	3	0
26. Letters and messengers (proper)... ...	0	3	4	0	6	8
27. ,, ,, (agency) ...	0	6	8	0	10	0

JUDGMENT ON ORDER TO STAY WHEN DEBT AND COSTS NOT PAID PURSUANT TO ORDER UNDER SECTION 42.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Costs as taxed or fixed on order to stay (Here insert the amount.)						
Drawing judgment	0	2	0	0	3	0
Entering same	0	2	0	0	3	0
Paid fee...	0	2	0	0	3	0
Drawing bill of costs and copy	0	2	0	0	3	0

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Copy for defendant's solicitor (if given), per folio	0	0	3	0	0	4
Notice of taxing (if given)	0	2	0	0	3	0
Attending taxing	0	2	0	0	3	0
Paid taxing	0	2	0	0	3	0
*Letters and messengers (proper)	0	1	0	0	2	0
,, ,, (agency)	0	2	0	0	4	0
If order to stay be given after a statement of claim has been filed or appearance entered.						
Letters and messengers (proper)	0	3	4	0	6	8
,, ,, (agency)	0	6	8	0	10	0

* These will only be allowed if judgment signed as of a subsequent sittings to the previous proceedings.

Plaintiff's Costs of Judgment on an Order for Reference.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Commence with the usual charges for such proceedings as have been taken, then continue as follows:—						
Instructions for affidavit in support of application for an order for compulsory reference	0	3	4	0	6	8
Drawing and engrossing same	0	3	4	0	5	0
Copy particulars of claim to annex, per folio	0	0	3	0	0	4
Preparing exhibit	0	0	6	0	1	0
Attending deponent to be sworn...	0	2	0	0	3	0
Paid oath and exhibit	0	2	0	0	2	0
Paid filing affidavit	0	1	0	0	2	0
Copy affidavit for other side, at per folio ...	0	0	3	0	0	4
Summons to refer, copy, and service, with copy affidavit	0	4	0	0	6	0
If by notice for directions	0	3	0	0	5	0
Paid for same	0	1	0	0	2	0

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending summons or application before the Registrar, same adjourned to answer affidavit	0	2	0	0	3	0
Attending adjourned summons, order made	0	2	0	0	3	0
Paid for order	0	1	0	0	2	0
Copy and service thereof	0	2	0	0	3	0
Attending obtaining an appointment to proceed	0	2	0	0	3	0
Copy and service of appointment	0	2	0	0	3	0
Minutes of evidence	0	6	8	0	13	4
Notice of attending by counsel, copy, and service...	0	2	0	0	3	0
Add the usual charges for notices to produce and admit, admissions, subpœnas, brief, etc.						
Attending witness, arranging for his attendance without an order	0	2	0	0	3	0
Attending the plaintiff (or defendant), informing him that his evidence would be necessary on the hearing	0	2	0	0	3	0
Attending reference per hour or part of an hour	0	6	8	0	10	0
If counsel conduct same on the part of the solicitor	0	5	0	0	7	6
Attending taking up certificate	0	2	0	0	3	0
Paid fees on reference, for every hour or part of an hour	0	6	8	0	10	0
Paid for certificate	0	3	0	0	5	0
Copy and service of certificate on the other side	0	2	0	0	3	0
Add the payment to witnesses.						
Drawing judgment	0	2	0	0	3	0
Entering same	0	2	0	0	3	0
Paid signing	0	2	0	0	3	0

Add the usual charges for affidavit of increase (if necessary), taxation of costs, letters, etc.

Counsel's fees are not allowed as between party and party unless a certificate be granted by the Registrar.

Costs upon Order Setting Aside Judgment upon Defendant's Application.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
The defendant having served summons to set aside judgment, attending same before the registrar when same adjourned to answer defendant's affidavit	0	1	0	0	2	0	0	3	0
Perusing affidavit of		*nil*		0	3	4	0	6	8
Instructions for affidavit of in opposition	0	1	8	0	3	4	0	6	8
Drawing and engrossing same, at per folio	0	0	6	0	0	8	0	1	0
Preparing exhibit (if any)		*nil*		0	0	6	0	1	0
Attending to swear and file same...	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
„ filing	0	0	6	0	1	0	0	2	0
„ exhibit (if any)	0	0	6	0	1	0	0	1	0
Attending adjourned summons when order made setting aside judgment upon payment of costs thrown away	0	1	0	0	2	0	0	3	0

Add the necessary charges for taxation of costs, letters, etc.

Costs on Rescinding Order to Set Aside Judgment, the Costs Not Having Been Paid.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Amount of costs of defendant's application to set aside judgment as taxed under order dated the day of									
Defendant not having paid the costs, attending for summons to rescind the said order	0	1	0	0	2	0	0	3	0
Paid for same...	0	0	6	0	1	0	0	2	0
Copy and service thereof, with copy affidavit...	0	1	0	0	2	0	0	3	0

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Drawing and engrossing affidavit in support, at per folio	0	0	6	0	0	8	0	1	0
Attending to swear same	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
Copy for defendant's solicitor, at per folio	0	0	2	0	0	3	0	0	4
Attending summons before the Registrar when order made with costs	0	1	0	0	2	0	0	3	0
Paid for order	0	0	6	0	1	0	0	2	0
Copy and service thereof	0	1	0	0	2	0	0	3	0

Add the necessary charges for taxation of costs, letters, etc.

Costs on an Order to Stay after Four Days from Service of Writ of Summons.

	Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*
Commence with the usual charges for writ and service, etc.						
Attending defendant's solicitor on his proposing to pay debts and costs by instalments...	0	2	0	0	3	0
Attending plaintiff thereon when he consented	0	2	0	0	3	0
Attending defendant's solicitor thereon, and arranging that order to stay should be given on the terms proposed	0	2	0	0	3	0
Attending summons to stay, order made ...	0	2	0	0	3	0
Drawing bill of costs and copy	0	2	0	0	3	0
Copy for defendant's solicitor, per folio ...	0	0	3	0	0	4
Notice of taxing (unless given by defendant)	0	2	0	0	3	0
Attending taxing	0	2	0	0	3	0
Paid taxing	0	2	0	0	3	0
Attending on settlement of debt and costs...	0	2	0	0	3	0
Letters and messengers (proper)...	0	1	0	0	2	0
,, ,, (agency)	0	2	0	0	4	0
Letters and messengers (proper) if appearance entered	0	3	4	0	6	8
Letters and messengers (agency) if appearance entered	0	6	8	0	10	0

Costs on an Order to Stay after Four Days and Before Statement of Defence.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Commence with the usual charges for writ and service, etc.						
Attending defendant's solicitor on his proposing to pay debt and costs by instalments	0	2	0	0	3	0
Attending plaintiff thereon when he consented	0	2	0	0	3	0
Attending defendant's solicitor thereon, and arranging that order to stay should be given on the terms proposed	0	2	0	0	3	0
Attending summons to stay order made ...	0	2	0	0	3	0
Drawing bill of costs and copy	0	2	0	0	3	0
Copy for defendant's solicitor, per folio ...	0	0	3	0	0	4
Notice of taxing (unless given by defendant)	0	2	0	0	3	0
Attending taxing	0	2	0	0	3	0
Paid taxing	0	2	0	0	3	0
Attending on settlement of debt and costs	0	2	0	0	3	0
Letters and messengers (proper)...	0	1	0	0	2	0
,, ,, (agency)	0	2	0	0	4	0
Letters and messengers (proper) if appearance entered	0	3	4	0	6	8
Letters and messengers (agency) if appearance entered	0	6	8	0	10	0

Costs up to Payment into Court and Acceptance in Satisfaction.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Commence with the usual charges previous to the payment into court.						
Drawing and engrossing authority to receive money out of court, and receipt, per folio	0	0	3	0	0	4
Attending plaintiff for his signature thereto	0	2	0	0	3	0
Attending to receive money out of court and giving receipt for same	0	2	0	0	3	0

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Paid fee thereon	0	2	0	0	3	0
Notice accepting the sum paid into court in full satisfaction and service thereof...	0	2	0	0	3	0

Add the usual charges for bill of costs and taxation.

In case of non-payment of the costs within forty-eight hours after taxation, the plaintiff will be entitled to sign judgment for his costs so taxed.

Costs upon Order to Amend Statement of Defence.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending summons or application before the Registrar for leave to amend statement of defence by (here describe the amendment required) when order made	0	1	0	0	2	0	0	3	0
Attending plaintiff as to defendant having amended his statement of defence, and taking his instructions thereon...	0	1	0	0	2	0	0	3	0
Perusing amended statement of defence...	0	1	8	0	3	4	0	6	8
Drawing bill of costs and copy ...	0	1	0	0	2	0	0	3	0
Copy for defendant's solicitor, per folio	0	0	2	0	0	3	0	0	4
Notice of taxing copy, and service (if necessary)	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid taxing	0	1	0	0	2	0	0	3	0
Attending receiving costs, and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messengers (proper)	0	1	8	0	3	4	0	6	8
,, ,, (agency)	0	3	4	0	6	8	0	10	0

Costs upon Order to Amend Statement of Claim on Writ.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
*Having been served with a summons or application for leave to amend statement of claim by (here describe the amendment required), and with notice that it would be attended by counsel, instructions to Mr. to attend and oppose same		*nil*		0	3	4	0	6	8
Fee to Mr. and clerk		*nil*		1	3	6	1	3	6
Attending him		*nil*		0	3	4	0	6	8
Notice to plaintiff's solicitor that summons or application would be attended by counsel on behalf of defendant, copy, and service	0	1	0	0	2	0	0	3	0
Attending summons before the Registrar when order made...	0	1	0	0	2	0	0	3	0
Perusing amended statement of claim		*nil*		0	3	4	0	6	8
Attending defendant as to plaintiff having amended his statement of claim, and taking his instructions	0	1	0	0	2	0	0	3	0

If statement of defence amended, add the usual charges.

Add the usual charges for bill of costs and taxation.

* Counsel's fee is not allowed as between party and party unless a certificate be granted by the Registrar.

Costs on Trial being Postponed on the Defendant's Application.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending summons or application before the Registrar to postpone trial, on the ground (here insert the grounds of the application), same adjourned to answer affidavit...	0	1	0	0	2	0	0	3	0
Perusing copy affidavit in support thereof		*nil*		0	3	4	0	6	8

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Instructions for affidavit in opposition (if made)	0	1	8	0	3	4	0	6	8
Drawing and engrossing same ...	0	1	8	0	3	4	0	5	0
Or, per folio	0	0	6	0	0	8	0	1	0
Attending to swear and file same...	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
Attending adjourned summons, order made	0	1	0	0	2	0	0	3	0

Here add the costs necessarily incurred in preparing for trial, affidavit of increase (if necessary), taxation of costs, letters, etc.

Attachment of Debts.

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Summons for attendance of judgment debtor before the Deputy-Registrar, to be examined as to debts owing to him, copy, and service	0	2	0	0	4	0	0	6	0
Paid	0	0	6	0	1	0	0	2	0
Mileage, etc., as on service of writ.									
Attending summons when order made	0	1	0	0	2	0	0	3	0
Paid for order...	0	0	6	0	1	0	0	2	0
Attending the Deputy-Registrar, obtaining appointment to examine the judgment debtor...	0	1	0	0	2	0	0	3	0
Copy and service of order and appointment on him	0	1	0	0	2	0	0	3	0
Mileage, etc., as on service of writ.									
Conduct money (to be tendered when necessary).									
Attending appointment when judgment debtor examined, at per hour	0	3	4	0	6	8	0	10	0
Paid fees, for each hour	0	3	4	0	6	8	0	10	0

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Attending bespeaking office copy examination of judgment debtor, and subsequently attending for same...	0	1	0	0	2	0	0	3	0
Paid, at per folio	0	0	3	0	0	4	0	0	6
Instructions for affidavit of judgment creditor in support of application for garnishee order ...	0	1	8	0	3	4	0	6	8
Drawing and engrossing same ...	0	1	8	0	3	4	0	5	0
Attending deponent to be sworn ...	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
Attending Registrar when order *nisi* made	0	1	0	0	2	0	0	3	0
Paid for order...	0	0	6	0	1	0	0	2	0
Copy and service on the garnishee	0	1	0	0	2	0	0	3	0
Mileage, etc., as on service of writ.									
Attending return of order *nisi* when same made absolute	0	1	0	0	2	0	0	3	0
If the garnishee does not attend, charge for an affidavit of service.									
Paid for order absolute	0	0	6	0	1	0	0	2	0
Copy and service thereof on the garnishee	0	1	0	0	2	0	0	3	0
If the garnishee disputes his indebtedness, omit the last three items and substitute the following charges :—									
The garnishee having delivered an affidavit in opposition to order perusing same		*nil*		0	3	4	0	6	8
Attending order *nisi* when order made for issue	0	1	0	0	2	0	0	3	0
Paid for order	0	0	6	0	1	0	0	2	0
Copy and service thereof on the garnishee's solicitor	0	1	0	0	2	0	0	3	0

Continue the charges as on trial of action.

Interlocutory Judgment and Writ of Inquiry—Action for Damages.

	Third Scale. £	s.	d.
Commence with the usual charges for writ and affidavit of service, and then continue as follows:—			
Drawing interlocutory judgment	0	3	0
Entering same	0	3	0
Attending to sign	0	3	0
Paid	0	3	0
Paid filing affidavit of service of writ	0	2	0
Writ of inquiry and attending to issue	0	6	8
Paid	0	5	0
Attending to lodge writ and set same down for trial ...	0	3	0
Paid fees	0	10	0
Precept to Head Bailiff and summoning jury	0	5	6
Fee for jurymen on trial	0	6	0
Attending for jury list	0	3	0
Copy of jury list when required	0	1	0
*Notice to defendant of writ of inquiry, copy, and service	0	5	0
If sent to an Agent for service.			
Writing agent therewith	0	3	0
Paid his charges for service and correspondence	0	6	6
If defendant resides at a distance from the agent, in addition to the above, mileage, at per mile	0	1	0
Add the usual charges for advice on evidence, notices to produce and admit, subpœnas, and brief when counsel attends on the inquiry, attending inquiry when damages assessed.			
Paid court fees.			

* If it is the intention to attend by counsel, notice thereof should be served upon the opposite party with the notice for execution of Writ of Inquiry.

	Third Scale. £	s.	d.
Attending Registrar for return to writ	0	3	0
Paid fees for same	0	5	0
Drawing final judgment	0	3	0
Entering same	0	3	0
Paid signing	0	3	0

Add the usual charges for affidavit of increase, taxation of costs, payment of witnesses, etc.

Cost of Taxation of Plaintiff's Costs on too much being Indorsed on Writ.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Summons to tax, copy, and service	0	2	0	0	4	0	0	6	0
Paid	0	0	6	0	1	0	0	2	0
Attending thereon, order made ...	0	1	0	0	2	0	0	3	0
Paid for order...	0	0	6	0	1	0	0	2	0
Attending for appointment to tax...	0	1	0	0	2	0	0	3	0
Copy and service of order and appointment...	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid...	0	1	0	0	2	0	0	3	0
Drawing bill of costs, and copy ...	0	1	0	0	2	0	0	3	0
Copy for plaintiff's solicitor, per folio	0	0	2	0	0	3	0	0	4
Notice of taxing, copy, and service	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid...	0	1	0	0	2	0	0	3	0
Attending receiving costs and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messengers (proper) ...	*nil*			0	1	0	0	2	0
,, ,, (agency) ...	0	1	0	0	2	0	0	4	0

Costs upon an Order Setting Aside Judgment Irregularly Signed.

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Attending searching when judgment signed	0	1	0	0	2	0	0	3	0
Instructions for affidavit in support of summons to set aside judgment and execution issued thereon	0	1	8	0	3	4	0	6	8
Drawing and engrossing same, at per folio	0	0	6	0	0	8	0	1	0
Attending to swear and file same...	0	1	0	0	2	0	0	3	0
Preparing exhibit (if any)		*nil*		0	0	6	0	1	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid exhibit (if any)	0	0	6	0	1	0	0	1	0
Paid filing affidavit	0	0	6	0	1	0	0	2	0
Summons to set aside, copy, and service	0	2	0	0	4	0	0	6	0
Paid	0	0	6	0	1	0	0	2	0
Copy and service of summons on Head Bailiff (when necessary)	0	1	0	0	2	0	0	3	0
Attending summons before Registrar, same adjourned at plaintiff's request to answer affidavit	0	1	0	0	2	0	0	3	0
Plaintiff having filed and delivered affidavit in answer, perusing same		*nil*		0	3	4	0	6	8
Attending adjourned summons, order made	0	1	0	0	2	0	0	3	0
Paid for order...	0	0	6	0	1	0	0	2	0
Copy and service	0	1	0	0	2	0	0	3	0
Copy and service of order on Head Bailiff (when necessary) ...	0	1	0	0	2	0	0	3	0
Attending at the Registrar's office, striking out judgment, and filing order	0	1	0	0	2	0	0	3	0
Paid	0	0	6	0	1	0	0	2	0
Drawing bill of costs, and copy ...	0	1	0	0	2	0	0	3	0

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Copy for plaintiff's solicitor, per folio	0	0	2	0	0	3	0	0	4
Notice of taxing, copy, and service	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid	0	1	0	0	2	0	0	3	0
Attending receiving costs and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messengers (proper) ...		*nil*		0	1	0	0	2	0
,, ,, (agency) ...	0	1	0	0	2	0	0	4	0

Costs on Order to Dismiss Action for Want of Prosecution.

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Instructions to defend	0	1	8	0	3	4	0	6	8
Appearance	0	1	0	0	1	6	0	2	0
For each additional defendant ...	0	0	6	0	0	6	0	1	0
Duplicate appearance	0	0	6	0	1	0	0	1	0
Attending to enter same	0	1	0	0	2	0	0	3	0
Paid fee	0	0	6	0	1	0	0	2	0
If more than one defendant, extra for each additional defendant	0	0	3	0	0	6	0	1	0
Notice of appearance, copy, and service, with duplicate appearance	0	1	0	0	2	0	0	3	0
Perusing statement of claim ...		*nil*		0	3	4	0	6	8
Summons to dismiss action for want of prosecution, copy, and service	0	2	0	0	4	0	0	6	0
Or, notice for directions, copy, and service	0	1	6	0	3	0	0	5	0
Paid for same...	0	0	6	0	1	0	0	2	0
Attending thereon, order made ...	0	1	0	0	2	0	0	3	0
Paid for same...	0	0	6	0	1	0	0	2	0
Copy and service	0	1	0	0	2	0	0	3	0
Drawing bill of costs and copy ...	0	1	0	0	2	0	0	3	0

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Copy for plaintiff's solicitor, per folio	0	0	2	0	0	3	0	0	4
Notice of taxing, copy, and service	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid taxing	0	1	0	0	2	0	0	3	0
Attending receiving costs and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messengers (proper) ...	0	1	8	0	3	4	0	6	8
,, ,, (agency) ...	0	3	4	0	6	8	0	10	0

Costs upon Notice to Discontinue Action.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Whatever costs have been incurred by the defendant previous to notice to discontinue must be charged for, then add:—									
Drawing bill of costs, and copy ...	0	1	0	0	2	0	0	3	0
If exceeding three folios (not counting figures), additional, per folio	0	0	2	0	0	3	0	0	4
Copy for plaintiff's solicitor, per folio	0	0	2	0	0	3	0	0	4
Notice of taxing, copy, and service	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid taxing, if not exceeding three folios	0	1	0	0	2	0	0	3	0
Attending receiving costs and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messenger's (proper)...	0	1	8	0	3	4	0	6	8
,, ,, (agency) ...	0	3	4	0	6	8	0	10	0

Costs on Order Dismissing a Summons.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
The plaintiff (or defendant) having served a summons or notice for (here describe same), instructions to resist the application and for affidavit in opposition	0	1	8	0	3	4	0	6	8

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Perusing affidavit in support ...		*nil*		0	3	4	0	6	8
Attending application before the Registrar, when same adjourned to answer affidavit...	0	1	0	0	2	0	0	3	0
Drawing and engrossing affidavit in opposition thereto (if not special)	0	1	8	0	3	4	0	5	0
If special, drawing and engrossing same, at per folio...	0	0	6	0	0	8	0	1	0
Preparing exhibit (if any)		*nil*		0	0	6	0	1	0
Attending deponent to be sworn and file same	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid exhibit (if any)	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
Attending adjourned application, when same dismissed with costs	0	1	0	0	2	0	0	3	0
Paid for order	0	0	6	0	1	0	0	2	0
Copy and service of order	0	1	0	0	2	0	0	3	0
Notice of taxing, copy, and service	0	1	0	0	2	0	0	3	0
Drawing bill of costs and copy ...	0	1	0	0	2	0	0	3	0
Copy for the other side, per folio...	0	0	2	0	0	3	0	0	4
Attending taxing	0	1	0	0	2	0	0	3	0
Paid taxing	0	1	0	0	2	0	0	3	0
Attending receiving costs and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messengers (proper) ...	0	1	8	0	3	4	0	6	8
,, ,, (agency) ...	0	3	4	0	6	8	0	10	0

Costs of Reference on an Order of Nisi Prius.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
This precedent will be substantially the same as upon a trial down to the verdict.						
The cause being called on, and referred by an order of *nisi prius*, attending drawing up order of reference	0	2	0	0	3	0

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Paid for same	0	3	0	0	4	0
Copy and service	0	2	0	0	3	0
Attending arbitrator for appointment to proceed	0	2	0	0	3	0
Notice to each witness to attend reference and service	0	2	0	0	3	0
Or insert usual charges for subpœnas, Chapter lxv., items 196 to 205.						
Attending counsel with brief	0	3	4	0	6	8
Fee to him and clerk	2	4	6	3	5	6
Attending reference, per hour	0	5	0	0	7	6
The same costs as upon a trial.						
Having received a note from the arbitrator that his award (or certificate) was ready, attending taking up same ...	0	2	0	0	3	0
Paid arbitrator's fees.						
Copy and service of award (or certificate) on the other side...	0	2	0	0	3	0
Copy to keep, per folio	0	0	3	0	0	4

The costs of judgment, affidavit of increase, taxation of costs, letters, etc., will be the same as upon a trial.

Should the award or certificate be found for the plaintiff, and the amount does not exceed £10, only costs on the County Court scale will be allowed.

Motion to the Court.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Instructions to appeal from (as the case may be)	0	1	8	0	3	4	0	6	8
Notice of motion		*nil*		0	2	6	0	3	4
Copy and service thereof	0	1	0	0	2	0	0	3	0
Attending setting down same for hearing	0	1	0	0	2	0	0	3	0
Paid fee	0	3	4	0	6	8	0	10	0
Instructions for affidavit to ground motion	0	1	8	0	3	4	0	6	8

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
Drawing and engrossing same, at per folio	0	0	6	0	0	8	0	1	0
Attending to swear same	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
Copy affidavit for other side, at per folio	0	0	2	0	0	3	0	0	4
Attending delivering same	0	1	0	0	2	0	0	3	0
Brief affidavit for counsel (if motion special), at per folio		*nil*		0	0	3	0	0	4
Drawing observations (when necessary)		*nil*		0	3	4	0	6	8
If special, to be allowed as brief in the discretion of the Registrar, not exceeding		*nil*		0	6	8	0	13	4
Fee to counsel to move, and clerk		*nil*		1	3	6	1	3	6
If special, and of importance ...		*nil*		1	3	6	2	4	6
Attending counsel		*nil*		0	3	4	0	6	8
Attending court, judgment deferred		*nil*		0	6	8	0	10	0
Attending court, motion granted ...		*nil*		0	6	8	0	10	0
Paid court fees	0	2	0	0	5	0	0	7	6
Attending to draw up rule	0	1	0	0	2	0	0	3	0
Paid for same...	0	1	0	0	2	0	0	3	0
,, if exceeding six folios...	0	2	0	0	3	0	0	5	0
Copy and service thereof	0	1	0	0	2	0	0	3	0

If rule made absolute with costs, add the usual charges for appointment to tax, etc.

Opposing Motion to the Court.

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
Perusing affidavit filed in support of motion		*nil*		0	3	4	0	6	8

For the charges for instructions for affidavit in answer, counsel, attendance in court, taxation of costs, etc., see last precedent.

Costs of Making Action a Remanet.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending court when action made a remanet to the next sitting. See "Costs of attending court," previous precedents.						
Paid remanet fee	0	3	0	0	5	0
Attending to re-seal each subpœna	0	2	0	0	3	0
Paid re-sealing subpœna *ad test*, for every three names	0	2	0	0	3	0
The like each subpœna *duces tecum*	0	3	0	0	5	0
Fresh copies and re-serving each witness as usual						
Fresh notice of trial, copy, and service (if action made a remanet by consent of the parties)	0	2	0	0	3	0
Notice to the Registrar to re-enter action (if necessary)	0	2	0	0	3	0
Attending to re-enter same	0	2	0	0	3	0

Other charges as usual. Refresher fee to counsel and attendance as usual.

Costs of Motion for an Attachment.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Instructions for affidavit in support of motion	0	1	8	0	3	4	0	6	8
*Drawing and engrossing affidavit	0	1	8	0	3	4	0	5	0
Or, per folio	0	0	6	0	0	8	0	1	0
Attending to swear and file same...	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
Copy for the other side, at per folio	0	0	2	0	0	3	0	0	4
Attending delivering same	0	1	0	0	2	0	0	3	0

Charges for notice of motion, etc., counsel, attendances in court to draw up rule, taxation of costs, etc., as in "Motion to the Court."

* In order to obtain an attachment, the order, etc., must be served personally on the party liable to attachment.

Claimant's Costs after Trial in Interpleader Action.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending the claimant on his informing me that goods belonging to him had been seized by the Head Bailiff under an execution against the defendant, and taking instructions to support claim	0	1	0	0	2	0	0	3	0
Drawing notice of claim	0	1	0	0	2	0	0	3	0
Copy and service on the Head Bailiff	0	1	0	0	2	0	0	3	0
Instructions for affidavit of claimant in support of claim ...	0	1	8	0	3	4	0	6	8
Drawing and engrossing same ...	0	1	8	0	3	4	0	5	0
Or, per folio	0	0	6	0	0	8	0	1	0
Attending deponent to be sworn, and file same	0	1	0	0	2	0	0	3	0
Paid oath	0	0	6	0	1	0	0	1	0
Paid filing	0	0	6	0	1	0	0	2	0
If there are any exhibits, add the two following items:—									
Preparing exhibit		*nil*		0	0	6	0	1	0
Paid	0	0	6	0	1	0	0	1	0
Copy affidavit and exhibits (if any) for execution creditor's solicitor, at per folio	0	0	2	0	0	3	0	0	4
Attending delivering same	0	1	0	0	2	0	0	3	0
Attending summons when the Head Bailiff was ordered to withdraw	0	1	0	0	2	0	0	3	0
If issue directed, omit the last item and substitute the following:—									
Attending summons when the Registrar made an order for an issue	0	1	0	0	2	0	0	3	0
Attending the claimant informing him thereof, and obtaining the money to pay into court	0	1	0	0	2	0	0	3	0

	First Scale.			Second Scale.			Third Scale.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Attending paying same into court...	0	1	0	0	2	0	0	3	0
Paid fee and obtaining receipt ...	0	1	0	0	2	0	0	3	0
Notice thereof and service on solicitor for the execution creditor...	0	1	0	0	2	0	0	3	0
The like on the Head Bailiff ...	0	1	0	0	2	0	0	3	0
Instructions for interpleader issue	0	1	8	0	3	4	0	6	8
Drawing same	0	1	0	0	2	6	0	5	0
Copy thereof for approval, at per folio	0	0	2	0	0	3	0	0	4
Attending the execution creditor's solicitor therewith	0	1	0	0	2	0	0	3	0
Engrossing issue as settled, at per folio	0	0	2	0	0	3	0	0	4
Notice of trial, copy, and service...	0	1	0	0	2	0	0	3	0
The costs of entering issue and for trial thereof, etc., are the same as in other cases.									
If no order was made by the Judge for payment out of the money in court, add the following charges:—									
Summons to receive money out of court, and for costs, copy, and service	0	2	0	0	4	0	0	6	0
Paid for same...	0	0	6	0	1	0	0	2	0
Attending summons or application, order made	0	1	0	0	2	0	0	3	0
Paid for order...	0	0	6	0	1	0	0	2	0
Copy and service	0	1	0	0	2	0	0	3	0
Attending to receive money out of court and give receipt... ...	0	1	0	0	2	0	0	3	0
Paid fee thereon	0	1	0	0	2	0	0	3	0
Paid filing order	0	0	6	0	1	0	0	2	0

Add the necessary charges for taxation of costs, letters, etc.

Claimant's Costs on Interpleader Summons, Execution Creditor Afterwards Withdrawing.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Charge the same costs as in previous precedent, as far as incurred, then add:—									
Paid the Head Bailiff days' possession money on withdrawing.									
Attending thereon	0	1	0	0	2	0	0	3	0
Attending summons to vary the order directing an interpleader issue to be tried, when order made	0	1	0	0	2	0	0	3	0
Drawing and engrossing authority to receive money out of court (if necessary) and receipt, per folio	0	0	2	0	0	3	0	0	4
Attending to receive money out of court, and to give receipt for same	0	1	0	0	2	0	0	3	0
Paid fee thereon	0	1	0	0	2	0	0	3	0
Drawing bill of costs and copy ...	0	1	0	0	2	0	0	3	0
Copy for execution creditor's solicitor, per folio	0	0	2	0	0	3	0	0	4
Notice of taxing, copy, and service	0	1	0	0	2	0	0	3	0
Attending taxing	0	1	0	0	2	0	0	3	0
Paid taxing	0	1	0	0	2	0	0	3	0
Attending receiving costs and giving receipt	0	1	0	0	2	0	0	3	0
Letters and messengers (proper)...		*nil*		0	1	0	0	2	0
,, ,, (agency)...	0	1	0	0	2	0	0	4	0

Execution Creditor's Costs after trial in Interpleader Action.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending plaintiff informing him of a claimant having given notice to the Head Bailiff of his claim to the goods seized ...	0	1	0	0	2	0	0	3	0
Attending interpleader summons before the Registrar, when same adjourned for affidavit by claimant in support of his claim	0	1	0	0	2	0	0	3	0
Perusing affidavit in support of claim		*nil*		0	3	4	0	6	8
If the claim is founded on a bill of sale, add the four following items :—									
Attending at the bill of sale office, searching for bill of sale and affidavit of due execution thereof	0	1	0	0	2	0	0	3	0
Paid search	0	1	0	0	2	0	0	3	0
Attending bespeaking and for office copy thereof...	0	1	0	0	2	0	0	3	0
Paid for same.									
Attending adjourned summons when the claim was barred	0	1	0	0	2	0	0	3	0
If an issue is directed, omit the last item and substitute the following :—									
Attending adjourned summons when the Registrar directed an issue to be tried	0	1	0	0	2	0	0	3	0
Attending searching, and found the money had been paid into Court	0	1	0	0	2	0	0	3	0

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
Attending claimant's solicitor returning draft interpleader issue	0	1	0	0	2	0	0	3	0
Here insert the costs of trial, etc., which are the same as in other cases, then add :—									
Summons to receive money out of court, and for costs (if necessary), copy, and service ...	0	2	0	0	4	0	0	6	0
Paid for same...	0	0	6	0	1	0	0	2	0
Attending summons, order made...	0	1	0	0	2	0	0	3	0
Paid for order	0	0	6	0	1	0	0	2	0
Copy and service	0	1	0	0	2	0	0	3	0
Attending to receive money out of court, and give receipt ...	0	1	0	0	2	0	0	3	0
Paid fee thereon	0	1	0	0	2	0	0	3	0
Paid filing order	0	0	6	0	1	0	0	2	0

Add the necessary charges for taxation of costs, letters, etc.

Execution Creditor's Costs on Interpleader Summons after hearing by Registrar.

	First Scale.			Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.	£	s.	d.
Commence with the same charges as in previous precedent, down to "Paid for same."									
Attending adjourned summons when same by consent of both parties was further adjourned to be summarily disposed of by Registrar	0	1	0	0	2	0	0	3	0
Attending before the Registrar on hearing when order made to bar claim, per hour	0	3	4	0	6	8	0	10	0
Paid hearing fees, per hour	0	3	4	0	6	8	0	10	0
Attending to draw up order	0	1	0	0	2	0	0	3	0
Paid for same...	0	0	6	0	1	0	0	2	0
Copy and service on claimant's solicitor...	0	1	0	0	2	0	0	3	0
The like on Head Bailiff	0	1	0	0	2	0	0	3	0

Add the necessary charges for taxation of costs, letters, etc.

Claimant's Costs on Interpleader Summons after Hearing by Registrar.

	First Scale. £	s.	d.	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Commence as in "Claimant's costs after trial" down to "Attending delivering same."									
Attending interpleader summons before Registrar when same adjourned by consent to be summarily disposed of by Registrar	0	1	0	0	2	0	0	3	0
Attending before the Registrar on the hearing when order made to withdraw, per hour... ...	0	3	4	0	6	8	0	10	0
Paid hearing fees.									
Attending to draw up order	0	1	0	0	2	0	0	3	0
Paid for same...	0	0	6	0	1	0	0	2	0
Copy and service on execution creditor's solicitor	0	1	0	0	2	0	0	3	0
The like on Head Bailiff	0	1	0	0	2	0	0	3	0

Add the necessary charges for taxation of costs, letters, etc.

Costs of Summons and Order to Examine Judgment Debtor under Judgment or Order.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Summons for examination of judgment debtor, copy, and service...	0	4	0	0	6	0
Paid for same	0	1	0	0	2	0
Attending same when order made	0	2	0	0	3	0
Paid for order	0	1	0	0	2	0
Attending for appointment	0	2	0	0	3	0
Copy and service of order and appointment	0	2	0	0	3	0
Paid conduct money.						
Attending appointment, at per hour	0	6	8	0	10	0
Paid fees (per hour)	0	6	8	0	10	0
Attending bespeaking and for office copy examination (if required)	0	2	0	0	3	0
Paid for same, per folio	0	0	4	0	0	6

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
NOTE.—Should these costs not be paid by the judgment debtor, then add the following items :—						
Summons to show cause why defendant should not pay the costs of and incidental to his examination by Registrar, copy, and service	0	4	0	0	6	0
Paid for same	0	1	0	0	2	0
Attending application, order made	0	2	0	0	3	0
Paid for order	0	1	0	0	2	0
Copy and service	0	2	0	0	3	0

NOTE.—These costs are in the discretion of the Registrar, and their allowance will in general depend on the usefulness of the information obtained under the examination.

COSTS ON ORDER FOR TAXATION OF SOLICITOR'S BILL OF COSTS.

	£	s.	d.
Attending client taking instructions to tax bill of costs	0	5	0
Summons to tax, copy, and service	0	6	0
Paid for same	0	2	0
Attending thereon, order made	0	3	0
Paid for order	0	2	0
Attending for appointment of tax	0	3	0
Copy and service of order and appointment	0	3	0
Attending taxing when less than one-sixth taxed off (if short)	0	3	4
Attending taxing when less than one-sixth taxed off (if long)	0	6	8
Paid taxing. All necessary attendance and affidavits to be charged for according to circumstances.			
If more than a sixth be taxed off, charge as above, then add :—			
Drawing bill of costs and copy for taxation	0	3	0
Copy for the opposite party, per folio	0	0	4

	£	s.	d.
Attending taxing	0	3	0
Paid	0	3	0
Attending receiving costs and giving receipt...	0	3	0
Letters and messengers (proper)	0	2	0
,, ,, (agency)	0	4	0

Special Case.—Plaintiff's Costs.

	Second Scale.			Third Scale.		
	£	s.	d.	£	s.	d.
If application not made on summons for directions, charge for summons and order as in previous precedents.						
Attendances on defendant's solicitor agreeing amount for which judgment to be entered according to the decision of the court on the point of law	0	3	4	0	5	0
Instructions for special case	0	3	4	0	6	8
Drawing same, per folio	0	0	8	0	1	0
Fee to counsel to settle and clerk	1	3	6	1	3	6
Attending him	0	3	4	0	6	8
Fair copy for approval, per folio	0	0	3	0	0	4
Attending defendant's solicitor therewith ...	0	2	0	0	3	0
Attending defendant's solicitor obtaining his signature to special case	0	2	0	0	3	0
Copy special case for the printer, per folio	0	0	3	0	0	4
Examining proof print, per folio...	0	0	2	0	0	2
Printing amount paid, not exceeding, per folio	0	1	0	0	1	0
Attending to enter special case	0	2	0	0	3	0
Memorandum of entry to file, per folio ...	0	0	3	0	0	4
Paid fee...	0	6	8	0	10	0
Notice of setting down special case, copy, and service...	0	2	0	0	3	0

For further charges see previous precedents.

Special Case.—Defendant's Costs.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Attending application when order made for statement of special case	0	2	0	0	3	0
Attendances upon plaintiff's solicitor, arranging amount for which judgment should be entered according to the decision upon the point of law	0	3	4	0	5	0
Perusing special case	0	3	4	0	6	8
Drawing alterations therein...	0	2	6	0	5	0
Or, per folio	0	0	8	0	1	0
Fee to counsel to peruse and settle, and clerk	1	3	6	1	3	6
Attending him	0	3	4	0	6	8
Fair copy alterations in draft, per folio ...	0	0	3	0	0	4
Attending plaintiff's solicitor returning draft approved as altered	0	2	0	0	3	0
Attending plaintiff's solicitor on his handing me special case for signature	0	2	0	0	3	0

For further charges see previous precedents.

Third Party Notice.—Third Party's Costs.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Instruction to defend	0	3	4	0	6	8
Perusing third party notice...	0	3	4	0	6	8
Attending to enter appearance	0	2	0	0	3	0
Appearance	0	1	6	0	2	0
Duplicate appearance	0	1	0	0	1	0
Paid	0	1	0	0	2	0
Notice and service	0	2	0	0	3	0
Attending defendant's summons for directions when order made	0	2	0	0	3	0

Charge for subsequent costs as in precedent of "Defendant's costs of action." If application made by third party to set aside third party notice adapt precedent "Ordinary summons."

Defendant's Costs of bringing in a Third Party.

	Second Scale. £	s.	d.	Third Scale. £	s.	d.
Instructions for affidavit in support of application	0	3	4	0	6	8
Drawing and engrossing same	0	3	4	0	5	0
Or, per folio	0	0	8	0	1	0
Attending deponent to be sworn	0	2	0	0	3	0
Paid oath	0	1	0	0	1	0
Paid filing	0	1	0	0	2	0
Attending Registrar when order made ...	0	2	0	0	3	0
Paid	0	1	0	0	2	0
Drawing third party notice...	0	2	0	0	3	0
Copy to file, per folio	0	0	3	0	0	4
Attending sealing...	0	2	0	0	3	0
Paid	0	1	0	0	2	0
Copy notice to serve, per folio	0	0	3	0	0	4
Copy writ to serve, per folio	0	0	3	0	0	4
Copy statement of claim to serve, per folio	0	0	3	0	0	4
If third party enters an appearance, add:—						
Attending searching for appearance	0	2	0	0	3	0
Summons for directions, copy, and service	0	4	0	0	6	0
If by notice under plaintiff's summons for directions	0	3	0	0	5	0
Paid	0	1	0	0	2	0
Notice to plaintiff's solicitor of attending same by counsel	0	2	0	0	3	0
Instructions to counsel to attend	0	3	4	0	6	8
Fee to him and clerk	1	3	6	1	3	6
Attending him	0	3	4	0	6	8
Attending summons when order made, giving third party leave to defend	0	2	0	0	3	0
Paid for order	0	1	0	0	2	0
Copy and service	0	2	0	0	3	0

Add remaining charges, which can be supplied from previous precedents.

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